

# **Exhibit 9**

Dare Investments v. Arent Fox

FILED  
U.S. DISTRICT COURT

2011 MAR 18 P 2:51

DISTRICT OF UTAH

BY: \_\_\_\_\_  
DEPUTY CLERK

Maoputasi Young, Utah Bar No. 11247  
1801 N 1120 W  
Provo, UT 84604  
Telephone: 801-655-1421  
Facsimile: 888-267-5887  
E-mail: [tyoung@altamirada.com](mailto:tyoung@altamirada.com)

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

DARE INVESTMENTS, LLC, a Utah  
limited liability company,

Plaintiff,

vs.

ARENT FOX LLP f/k/a ARENT FOX  
KINTNER PLOTKIN & KAHN,  
PLLC a New York Limited Liability  
Partnership,

Defendant.

NO. 2:11cv266 DAK

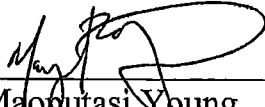
MOTION FOR PRO HAC VICE  
ADMISSION AND CONSENT OF LOCAL  
COUNSEL

Pursuant to D.U. Civ Rule 83-1.1(d), I move for the admission of Peter Strojnik as pro hac vice counsel for Plaintiff and consent to serve as local counsel. The application for pro hac vice admission is attached as exhibit A to this motion,

Dare Investments v. Arent Fox

an Electronic Case Filing Registration Form as exhibit B, and the admission fee, if required, has been paid to the court with the submission of this motion.

RESPECTFULLY SUBMITTED this 16<sup>th</sup> day of March, 2011.

  
\_\_\_\_\_  
Maoputasi Young  
Attorney for Plaintiff

**Exhibit A**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

DARE INVESTMENTS, LLC, a Utah  
limited liability company,

Plaintiff,

vs.

ARENT FOX LLP f/k/a ARENT FOX  
KINTNER PLOTKIN & KAHN,  
PLLC a New York Limited Liability  
Partnership,

Defendant.

NO.

APPLICATION FOR ADMISSION PRO  
HAC VICE

1. The name, address, phone number, fax number and e-mail address of the  
Applicant is:

Peter Strojnik, Arizona Bar No. 006464  
**PETER STROJNIK, P.C.**  
3030 North Central Avenue, Suite 1401  
Phoenix, Arizona 85012  
Telephone: 602-524-6602  
Facsimile: 602-296-0135  
E-mail: Strojnik@aol.com

2. Applicant's current Bar Membership is the State of Arizona, Bar Number  
006464. Applicant was admitted to practice in the State Courts of the State of

Dare Investments v. Arent Fox

Arizona and the United States District Court for the District of Arizona in 1980.

Applicant is licensed to practice before the 9<sup>th</sup> Circuit Court of Appeals.

1. In 1990, Applicant was censured by the Arizona Supreme Court for conflict of interest.
2. Applicant has not heretofore requested pro hac vice admission in any Court in the State of Utah.
3. Applicant certifies that he is a member in good standing of all bars to which he have been admitted. This certification that the foregoing is true and correct is made under penalty of perjury .

RESPECTFULLY SUBMITTED this 16 day of March, 2011.

THE LAW FIRM OF PETER STROJNIK, P.C.



Peter Strojnik, Esq.

Attorney *pro hac vice* (pending) for Plaintiff

## **Exhibit B**



UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

**ELECTRONIC CASE FILING REGISTRATION FORM**

Attorneys who are active or current pro hac vice members of the District of Utah's Bar may register for the District of Utah Electronic Filing System by (i) completing the required training and (ii) signing and returning this form to the Court. Please review carefully the registration conditions set forth below before signing.

Peter Strojnik

Peter Strojnik, P.C.

Name - First Middle Last  
3030 North Central Avenue, Suite 1401  
Mailing Address

Firm Name  
Phoenix, Arizona 85012  
City, State, Zip

Utah State Bar # (if applicable)

Telephone Number

By signing this form, I understand and consent to the following:

- Pursuant to Fed. R. Civ. P. 5(b)(2)(E), I will receive all items required to be served under Fed.R.Civ.P. 5(a) and 77 (d) and Fed. R. Crim P. 49 by either (i) notice of electronic filing, or (ii) e-mail transmission;
- Such electronic service will constitute service and notice of entry as required by those rules;
- I waive my right to service by USPS mail;
- I will abide by all Court rules, orders, and procedures governing the use of the electronic filing system;
- The combination of user ID and password issued by this Court will serve as the equivalent of my signature when I file documents using the District of Utah's electronic filing system;
- I will carefully examine all documents prior to filing them electronically with this Court to either (i) redact sensitive and private information pursuant to DUCiv R , or (ii) move that the filing be sealed;
- I will secure and protect my Court-issued password against unauthorized use or compromise; and
- I will notify the Clerk of this Court within 24 hours when I (i) have a change of name, firm, address, or e-mail address to ensure proper and timely service, or (ii) learn that my password has been compromised.

Email Address(es):

Primary E-mail address strojnik@aol.com

Up to two additional e-mail addresses 1) strojnik@skplaw.com,

2) \_\_\_\_\_

To receive a login, you must complete one of these four options. Please check appropriate box.

- |  |
|--|
| <input type="checkbox"/> I have attended the CMECF Training given by the Court. (signup at <a href="http://ors.utd.uscourts.gov">http://ors.utd.uscourts.gov</a> ) |
| <input type="checkbox"/> I have completed the CMECF Training for Attorneys given by an in-house trainer in my firm.  |
| <input type="checkbox"/> I have completed the CMECF Online Computer-Based Training modules on the court website.   |
| <input checked="" type="checkbox"/> I have an ECF account in the Utah Bankruptcy Court or in another Federal District Court.                                       |

Date: 03-16-11

Signature:

Please mail this completed form to: United States District Court, Office of the Clerk, ATTN: CM/ECF Registration, 350 S. Main St., Suite 150, Salt Lake City, Utah 84101,  
OR include this form as a pdf attachment with your Application for Pro Hac Vice.

After this Court processes this form, you will receive by email or US Mail your user ID and password that will enable you to access the system. The User Guide and administrative procedures for system use may be downloaded at: <http://www.utd.uscourts.gov/cmecf/ecfpage.html>. Please call the Clerk's Office Help Desk at (801) 524-6851 if you have questions concerning registration, training, or use of the electronic filing system.

Rev. 1/20/11

# **Exhibit 10**

Maoputasi Young, Esq., Utah Bar No. 11247  
Attorney For Plaintiff Dare Investments  
1801 North 1120 W  
Provo, Utah 84604  
Telephone 801-655-1421

**UNITED STATES DISTRICT COURT**  
**District of Utah Salt Lake City Division**

---

**Dare Investments**

Plaintiff

Motion for Pro Hac Vice Admission and  
Consent of Local Counsel

v.

**Arent Fox**

Defendant.

Case No. **2:11-cv-00266-DAK**

---

Pursuant to D.U. Civ Rule 83-1.1(d), I move the admission of **Peter Kristofer Strojnik** as pro hac vice counsel for **Plaintiff Dare Investments** ( Plaintiff/Defendant) and consent to serve as local counsel. The application for pro hac vice admission is attached as exhibit A to this motion, an Electronic Case Filing Registration Form as exhibit B, and the admission fee, if required, has been paid to the court with the submission of this motion.

Dated 9/23/2011

**/s/ Maoputasi Young**

Signature of local counsel

# APPLICATION FOR ADMISSION PRO HAC VICE

Telephone: 602-510-9409

Jurisdiction	Bar Number
<u>California</u>	<u>242728</u>
<u>Arizona</u>	<u>026082</u>
<u> </u>	<u> </u>

Admitted on June 2006  
Admitted on May 2008  
Admitted on \_\_\_\_\_  
Admitted on \_\_\_\_\_

X No \_\_\_\_\_ Yes ( provide additional information)

Prior pro hac vice admissions in the District of Utah: **NONE** none

Admission Date: \_\_\_\_\_

(Attach list of other cases separately if more space is needed.)

I certify that I am a member in good standing of all bars to which I have been admitted. This certification that the foregoing is true and correct is made under penalty of perjury .

September 23, 2011  
Date

**UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH**

**ELECTRONIC CASE FILING REGISTRATION FORM**

Attorneys who are active or current pro hac vice members of the District of Utah's Bar may register for the District of Utah Electronic Filing System by (i) completing the required training and (ii) signing and returning this form to the Court. Please review carefully the registration conditions set forth below before signing.

Peter Kristofer Strojnik

The Strojnik Firm L.L.C.

Name - First Middle Last  
2415 East Camelback Road, Suite 700

Firm Name  
Phoenix, Arizona 85016

Mailing Address  
N/A Pro hac vice applicant

City, State, Zip  
602-510-9409

Utah State Bar # (if applicable)

Telephone Number

By signing this form, I understand and consent to the following:

- Pursuant to Fed. R. Civ. P. 5(b)(2)(D), I will receive all items required to be served under Fed.R.Civ.P. 5(a) and 77 (d) and Fed. R. Crim P. 49 by either (i) notice of electronic filing, or (ii) e-mail transmission;
- Such electronic service will constitute service and notice of entry as required by those rules;
- I waive my right to service by USPS mail;
- I will abide by all Court rules, orders, and procedures governing the use of the electronic filing system;
- The combination of user ID and password issued by this Court will serve as the equivalent of my signature when I file documents using the District of Utah's electronic filing system;
- I will carefully examine all documents prior to filing them electronically with this Court to either (i) redact sensitive and private information pursuant to DUCiv R , or (ii) move that the filing be sealed;
- I will secure and protect my Court-issued password against unauthorized use or compromise; and
- I will notify the Clerk of this Court within 24 hours when I (i) have a change of name, firm, address, or e-mail address to ensure proper and timely service, or (ii) learn that my password has been compromised.

**Email Address(es):**

Primary E-mail address Strojnik@skplaw.com

Up to two additional e-mail addresses 1) \_\_\_\_\_,

2) \_\_\_\_\_

**To receive a login, you must complete one of these four options. Please check appropriate box.**

- |                                     |  |
|-------------------------------------|--|
| <input type="checkbox"/>            | I have attended the CMECF Training for Attorneys given by the Court.                       |
| <input type="checkbox"/>            | I have completed the CMECF Training for Attorneys given by an in-house trainer in my firm. |
| <input type="checkbox"/>            | I have completed the CMECF Online Computer-Based Training modules on the court website.    |
| <input checked="" type="checkbox"/> | I have an ECF account in the Utah Bankruptcy Court or in another Federal District Court.   |

**Date:** September 23, 2011

**Signature:** 

Please mail this completed form to: **United States District Court, Office of the Clerk, ATTN: CM/ECF Registration, 350 S. Main St., Suite 150, Salt Lake City, Utah 84101**

**or include this form as a pdf attachment with your Application for Pro Hac Vice.**

After this Court processes this form, you will receive by email or US Mail your user ID and password that will enable you to access the system. The User Guide and administrative procedures for system use may be downloaded at:

<http://www.utd.uscourts.gov/cmecf/ecfpage.html>. Please call the Clerk's Office Help Desk at (801) 524-6851 if you have questions concerning registration, training, or use of the electronic filing system.

# **Exhibit 11**



ATTORNEYS AT LAW

**Derrick R. Freijomil**  
Counsel

Direct:  
t: 973.451.8580  
f: 973.451.8622  
dfreijomil@riker.com  
Reply to: Morristown

September 28, 2011

**VIA EMAIL AND REGULAR MAIL**

Peter Strojnik, Esq.  
The Strojnik Firm, LLC  
2415 East Camelback Road  
Suite 700  
Phoenix, Arizona 85016  
[ps@strojnik.com](mailto:ps@strojnik.com)  
[Strojnik@aol.com](mailto:Strojnik@aol.com)

**Re: Dare Investments, LLC v. Chicago Title Insurance Co., et al.,**  
**Case No. 10-6088**

Dear Peter:

On behalf of defendant Chicago Title Insurance Company ("Chicago Title"), we respond to your letter yesterday sent on behalf of plaintiff Dare Investments, LLC ("Dare") and write to confirm our discussions yesterday regarding outstanding discovery issues.

As to your number 1, we clarify the reference as being to "written" responses.

As to your number 2, we agreed to produce responsive, non-privileged/protected documents subject to our written responses. We will be sending those documents on October 26, 2011 (which is a Monday) by overnight mail.

As to your number 3, production of the Chicago Title witness obviously is subject to the availability of the witness and Chicago Title's written objections.

As to your number 7, you also agreed to produce number 13.

As to your number 8, I do not believe that is accurate. As to the documents from the litigations you reference (the state court litigation and the bankruptcy), you agreed that we are not obligated to review documents in those litigations to try to figure out to what Dare was referring, which would be a futile and impossible task (not to mention unnecessarily costly). Thus, you said you were only referring to the documents in Horizon's file. If there are other documents, then Dare must produce them.

Peter Strojnik, Esq.  
September 28, 2011  
Page 2

As to your number 9, the request was for addresses for the six persons identified in my September 14, 2011 letter (not just the Clarks). Please send over the addresses for all of them.

In addition, there were other matters discussed and/or resolved during our call.

- A. You agreed to a protective order in this matter. We will forward a draft.
- B. You indicated that Dare was withholding and would be logging all its communications with its counsel (the Jones Waldo firm and formerly the St. John & Wayne firm) in the underlying transaction. We disagree with this approach as discussed and raised in the Amended Joint Discovery Plan.
- C. You indicated early in our call that you had "a lot" of communications with James Scarpone, Esq., counsel for Peter Mocco et al. We asked whether Dare would be producing all its communications, including those through counsel, with Messrs. Mocco and Scarpone from the inception of the underlying transaction to date (that is, both before and after the underlying transaction and before and during the Mocco state court litigation and this litigation). You said that your initial response was that you would since they were not privileged, but that you were considering whether there was joint defense protection as to some communications. Obviously, it is Chicago Title's position that all the documents should be produced. At a minimum, we would expect all the documents and communications to either be produced or logged.
- D. In addition to any other responsive documents, Dare would be producing or logging the "entire file [it] ha[s] on [i] the SWJ purchase, [ii] the CT Title Policy and [iii] the Clark loan deal."

Thank you.

Sincerely,

  
Derrick R. Freijomil

## **Exhibit 12**

Peter Strojnik  
STROJNIK, P.C.  
Arizona Bar No 006464  
Direct Dial: 602-524-6602

**STROJNIK, P.C.**  
**L A W Y E R S**

Peter K. Strojnik  
THE STROJNIK FIRM, LLC  
Arizona Bar No 026082  
California Bar No 242728  
Of Counsel

October 18, 2011

George Pratt, Esq.  
Jones, Waldo, Holbrook & McDonough, PC  
170 South Main Street, Suite 1500  
Salt Lake City, Utah 84101-1644

Rick Knuth, Esq.  
Jones, Waldo, Holbrook & McDonough, PC  
170 South Main Street, Suite 1500  
Salt Lake City, Utah 84101-1644

Custodian of Records  
Jones, Waldo, Holbrook & McDonough, PC  
170 South Main Street, Suite 1500  
Salt Lake City, Utah 84101-1644

Todd Galante, Esq.  
LeClair Ryan  
One Riverfront Plaza  
1037 Taymond Boulevard, 16<sup>th</sup> Floor  
Newark, New Jersey 07102

E. Kenneth Williams, Jr., Esq.  
LeClair Ryan  
One Riverfront Plaza  
1037 Taymond Boulevard, 16<sup>th</sup> Floor  
Newark, New Jersey 07102

Custodian of Records  
LeClair Ryan  
One Riverfront Plaza  
1037 Taymond Boulevard, 16<sup>th</sup> Floor  
Newark, New Jersey 07102

Re: ***Dare Investments, LLC v. Chicago Title***  
New Jersey District Court No 10-6088

Gentlemen:

We represent Dare Investments against Chicago Title in the above litigation. Chicago Title recently served you with subpoenas and/or notices of depositions. Please take notice that Dare Investments asserts the attorney-client, attorney work-product, litigation and any other privilege applicable to the testimony and/or production of documents.

Thank you in advance for your courtesy.

Very Truly Yours,

Peter Strojnik

PJS: ps

CC: Client *by e-mail only*

Mike O'Donnell *by e-mail only*

Derrick Freijomil *by e-mail only*

# Exhibit 13



ATTORNEYS AT LAW

**Derrick R. Freijomil**  
Counsel

Direct:  
t: 973.451.8580  
f: 973.451.8622  
dfreijomil@riker.com  
Reply to: Morristown

October 26, 2011

**VIA EMAIL AND REGULAR MAIL**

Peter Strojnik, Esq.  
The Strojnik Firm, LLC  
2415 East Camelback Road  
Suite 700  
Phoenix, Arizona 85016  
[ps@strojnik.com](mailto:ps@strojnik.com)  
[Strojnik@aol.com](mailto:Strojnik@aol.com)

**Re: Dare Investments, LLC v. Chicago Title Insurance Co., et al.,**  
**Case No. 10-6088**

Dear Peter:

As you know, we represent Chicago Title Insurance Company ("Chicago Title") in the above-matter and write with regard to some outstanding discovery issues in this matter.

Both Chicago Title and Dare Investments, LLC ("Dare") have not produced documents thus far, and we note that Dare has indicated it has had some difficulty in compiling its production, which Chicago Title has also experienced. Thus, we suggest exchanging our document productions on November 11, 2011.

As you know, we have been attempting to schedule depositions in December 2011. There are a number of depositions that need to be completed, and we are trying to schedule them in an orderly fashion. While we generally try to accommodate counsel's vacation schedule, we simply cannot do so for an entire month. If, however, you wish to obtain an extension of the discovery deadlines by one month, we would be happy to accommodate your request to avoid scheduling depositions during the month of December. Please get back to us on that issue.

As to the depositions of Richard McCloskey and Dare's representative, we cannot do them on November 30, 2011. Depending on how you approach the above, we will need to reschedule them.

Peter Strojnik, Esq.  
October 26, 2011  
Page 2

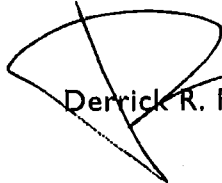
Regarding your email seeking to add "or otherwise designated 'Confidential'" to the confidentiality order, we simply are confused by your suggestion. We believe that the order cannot include such an ambiguous reference and that the documents and information either need to be marked as "Confidential" or not.

We have not received items 13 and 18-28 in Dare's Initial disclosures. It is our understanding that you were going to send those to us some time ago. Please let me know when we can expect them.

We ask that Dare please provide us with the most recent addresses it has for Shandon Gubler and Bart Carlson or that it confirm that it has checked all of its documents and records and has no information as to their whereabouts.

We look forward to hearing from you on these matters. Thank you.

Sincerely,



Derrick R. Freijomil

# **Exhibit 14**



**RIKER  
DANZIG  
SCHERER  
HYLAND  
PERRETTI LLP**

ATTORNEYS AT LAW

**Michael R. O'Donnell**  
Partner

Direct:  
t: 973.451.8476  
f: 973.451.8669  
modonnell@riker.com  
Reply to: Morristown

November 7, 2011

**VIA ELECTRONIC FILING & FACSIMILE**

Hon. Michael A. Shipp, U.S.M.J.  
U.S. District Court, District of New Jersey  
50 Walnut Street  
Newark, New Jersey 07102

**Re: Dare Investments, LLC v. Chicago Title Insurance Company, et al.**  
**Case No.: 10-6088**

Dear Judge Shipp:

We represent defendant Chicago Title Insurance Company ("Chicago Title") in the above-referenced matter. Your Honor's August 10, 2011 Scheduling Order requires all fact discovery to be concluded by February 9, 2011 (see ¶ 1 thereof) and sets forth subsequent deadlines based thereon (see ¶¶ 10-18). Counsel for plaintiff Dare Investments, LLC ("Dare") has informed us that he is unavailable to conduct any depositions in December 2011, and requested that we agree not to schedule any for that month. We are willing to agree to the same provided fact discovery and all subsequent deadlines are extended thirty days. As such, we submit this joint request for a thirty-day extension for all such deadlines in Your Honor's August 10, 2011 Scheduling Order.

Thank you for Your Honor's consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "MRO'Donnell", written over the typed name.

Michael R. O'Donnell

cc: Peter Strojnik, Esq. (via ECF)  
4182048.1

# **Exhibit 15**



ATTORNEYS AT LAW

**Derrick R. Freijomil**  
Counsel

Direct:  
t: 973.451.8580  
f: 973.451.8622  
dfreijomil@riker.com  
Reply to: Morristown

November 15, 2011

**VIA FACSIMILE: 973-645-4112**

Hon. Michael A. Shipp, U.S.M.J.  
U.S. District Court, District of New Jersey  
50 Walnut Street  
Newark, New Jersey 07102

**Re: Dare Investments, LLC v. Chicago Title Ins. Co., et al., Case No.:  
10-6088**

Dear Judge Shipp:

We represent defendant Chicago Title Insurance Company ("Chicago Title") in the above-referenced matter. Enclosed please find a copy of a letter from counsel for plaintiff Dare Investments, LLC ("Dare") regarding Dare's production in this matter and a copy of Chicago Title's letter from this morning addressing the deficiencies as to the same, including that Chicago Title has not received one document from Dare's production, and the necessity to adjourn the depositions of a Chicago Title representative and an employee of Horizon Title Agency, the policy-issuing agent that issued the title policy in the name of Chicago Title at issue in this case, scheduled for this Thursday and Friday, November 17 and 18, 2011. The discovery end date in this matter is currently February 9, 2011 (and the parties have submitted a November 7, 2011 request to extend that and all remaining deadlines 30 days). Chicago Title respectfully requests a short conference call with the Court and counsel to address this urgent issue. We have spoken with counsel for Dare and will inform him by email as to a time that Your Honor is available to discuss the matter with the parties today. Thank you for your time and consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Derrick R. Freijomil".

Derrick R. Freijomil

cc: Peter Strojnik, Esq. (via email)



ATTORNEYS AT LAW

**Derrick R. Freijomil**  
Counsel

Direct:  
t: 973.451.8580  
f: 973.451.8622  
dfreijomil@riker.com  
Reply to: Morristown

November 15, 2011

**VIA EMAIL, FACSIMILE AND U.S. MAIL**

Peter Strojnik, Esq.  
The Strojnik Firm, LLC  
2415 East Camelback Road  
Suite 700  
Phoenix, Arizona 85016  
Fax: (602) 296-0135  
[Strojnik@aol.com](mailto:Strojnik@aol.com)

**Re: Dare Investments, LLC v. Chicago Title Insurance Co., et al.,**  
**Case No. 10-6088**

Dear Peter:

We write on behalf of Chicago Title Insurance Company ("Chicago Title") as a follow up to my November 9, 2011 letter and in response to your letter sent in the evening on Friday, November 11, 2011. We were out of the office yesterday and need to address and resolve this issue with you today, or we will need to seek Court intervention today.

As explained, despite that fact discovery does not end until February 9, 2012 (and may be extended for thirty days thereafter), Dare Investments, LLC ("Dare") is insisting on taking the depositions of David Cohn and a Chicago Title representative on November 17 and 18, 2011, respectively, when the parties have not exchanged all discovery. It was agreed that the parties would exchange documents on Friday, November 11, 2011. Given the volume of Chicago Title's production, it could not be emailed on November 11<sup>th</sup>, so it was sent by overnight mail. Dare's sent a letter late Friday evening raising a number of issues and failing to provide Dare's full production sufficiently before the above-depositions. Unless these issues are resolved today, Chicago Title cannot agree to go forward with these depositions and will need to raise this urgent matter with the Court today.

Peter Strojnik, Esq.  
November 15, 2011  
Page 2

First, Dare has not produced all its documents sufficiently before these depositions to allow Chicago Title to properly and fairly prepare for the same, and based on Dare's correspondence, it is clear that Dare will not be doing so, which requires adjournment of the depositions. The limited documents that Dare is producing (this issue is addressed below) were sent by U.S. Mail and have still not been received as of this letter. It is not clear when Chicago Title will receive them, but it does not give Chicago Title sufficient time to review and analyze the documents and prepare for the depositions. In addition, Dare states that it has "identified" approximately 5,500 emails for production, but fails to produce any of them, instead saying: "Non-privileged e-mails will be produced to you seasonably." That Dare has only now "identified" such responsive communications is itself objectionable. In addition, there was no agreement to produce documents "seasonably" – whatever that term is meant to suggest. Moreover, Dare states: "We continue searching for additional documents that may have any relevance to the remaining issue in this case." Obviously, Dare has not and clearly will not produce its documents sufficiently before the depositions to allow Chicago Title to fairly and properly prepare for the same. Given this, we see no alternative but to adjourn the deposition under these circumstances. Please confirm whether you will do so, or we will have no choice but to raise this with the Court.

Second, Dare is vague, at best, as to whether it is fully complying with its discovery obligations and producing all documents responsive to Chicago Title's discovery requests and has provided no privilege log of what it is withholding. Dare's attempt to unilaterally limit its production to topics it claims are relevant is highly inappropriate and is objectionable. It appears that, despite Chicago Title's document requests, Dare is refusing to produce all responsive documents, instead seeking to restrict its production to some issue or group of issues it claims are the only relevant issues. Frankly, I have never seen such an approach, and it is highly improper to say the least. Dare must state clearly whether it is withholding any documents requested by Chicago Title and must log the same in accordance with the Rules. Please do so as this issue may also need to be raised with the Court.

Finally, Chicago Title explained in its October 14, 2011 responses to discovery that a confidentiality order was needed to produce certain of its documents (this is a relatively small amount, and all other documents have been produced). We sent Dare a draft confidentiality order on October 20, 2011. Dare made the highly unusual request to add language permitting documents to be "otherwise" designated as "Confidential" (as opposed to marking them as such). Chicago Title responded to this comment on October 26, 2011, indicating that such a modification would make the order and render its application ambiguous.

Peter Strojnik, Esq.  
November 15, 2011  
Page 3

Chicago Title noted on November 4, 2011, that it had received no response to its October 26, 2011, and that it stood ready to submit the proposed confidentiality order without the modification. It was not until November 10, 2011, that Dare responded to the matter, which is the same day on which Chicago Title submitted the proposed confidentiality order to the Court for approval. To date, there has been no response from the Court on said order.

For all the above-reasons, Chicago Title must object to the depositions of Mr. Cohn and a Chicago Title representative from going forward this week. It is highly improper and prejudicial to Chicago Title under these circumstances, which would allow Dare to ask the witnesses questions about information and documents that Dare has not yet produced and may be seeking to withhold under some not yet identified claim of privilege or protection. Please let us know whether you agree or whether we must raise the matter with the Court. Thank you.

Sincerely,



Derrick R. Freljomil

cc: Thomas J. Pisarri, Esq. (via email)

Peter Strojnik  
STROJNIK, P.C.  
Arizona Bar No 006464  
Direct Dial: 602-524-6602

**STROJNIK, P.C.**  
**LAWYERS**

Peter K. Strojnik  
THE STROJNIK FIRM, LLC  
Arizona Bar No 026082  
California Bar No 242728  
Of Counsel

November 11, 2011

Michael O'Donnell, Esq. *by e-mail only modonnell@riker.com*  
Derrick Freijomil, Esq. *by e-mail only dfreijomil@riker.com*  
Riker, Danzig, et al  
Headquarters Plaza  
One Speedwell Avenue  
Morristown, NJ 07962-1981

Re: *Dare Investments, LLC v. Chicago Title*  
NO. 2:10-cv-06088-DRD-MAS  
Production of Documents

Dear Mike and Derrick:

We have previously agreed to provide you with all non-privileged documentation relating to (1) SWJ funding and the Asset Purchase Agreement, (2) Dare's loans from Gary Clark and Clark Real Estate, and (3) coverage. In other words, we agreed to provide you with everything except privileged information. We agreed to provide you with this information not because CT may be entitled to it, but because discovery disputes are inherently unproductive.

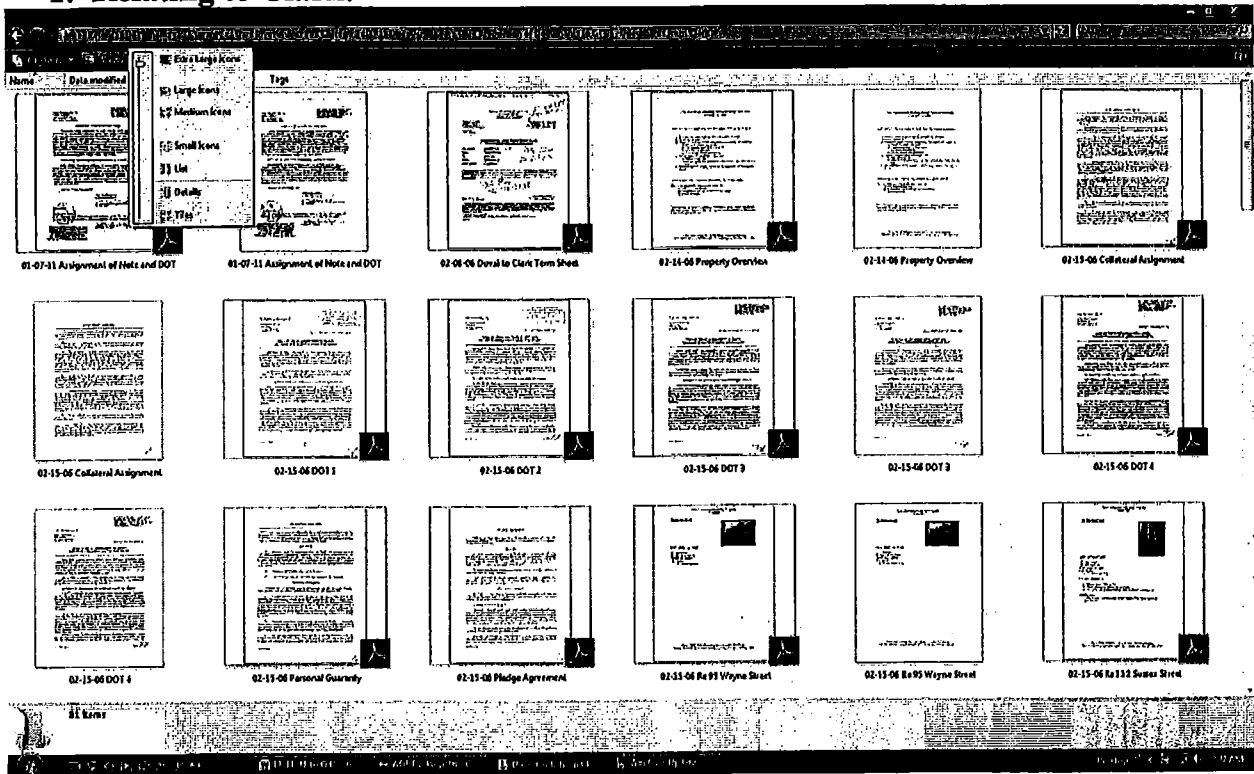
Both parties have now exchanged initial discovery. Unfortunately, the discovery responses contain many more lines of objections than actual disclosures. In order to streamline the discovery process, we suggest we limit the discovery, as suggested by Mr. Freijomil and as limited by Fed. R. Civ. P. 26(b) (1), to "nonprivileged matter[s] that [are] relevant<sup>1</sup>" to CT's defenses<sup>2</sup>.

<sup>1</sup> Evidence is "relevant" if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Fed. R. Evid. 401.

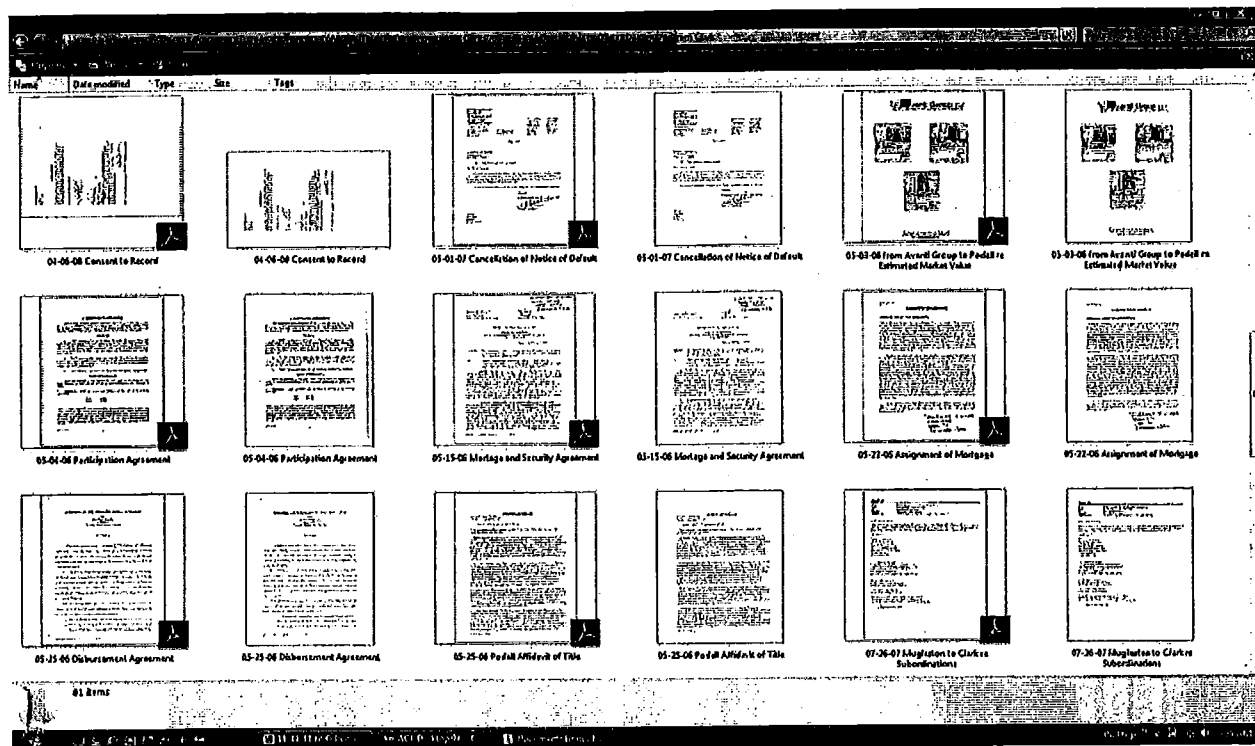
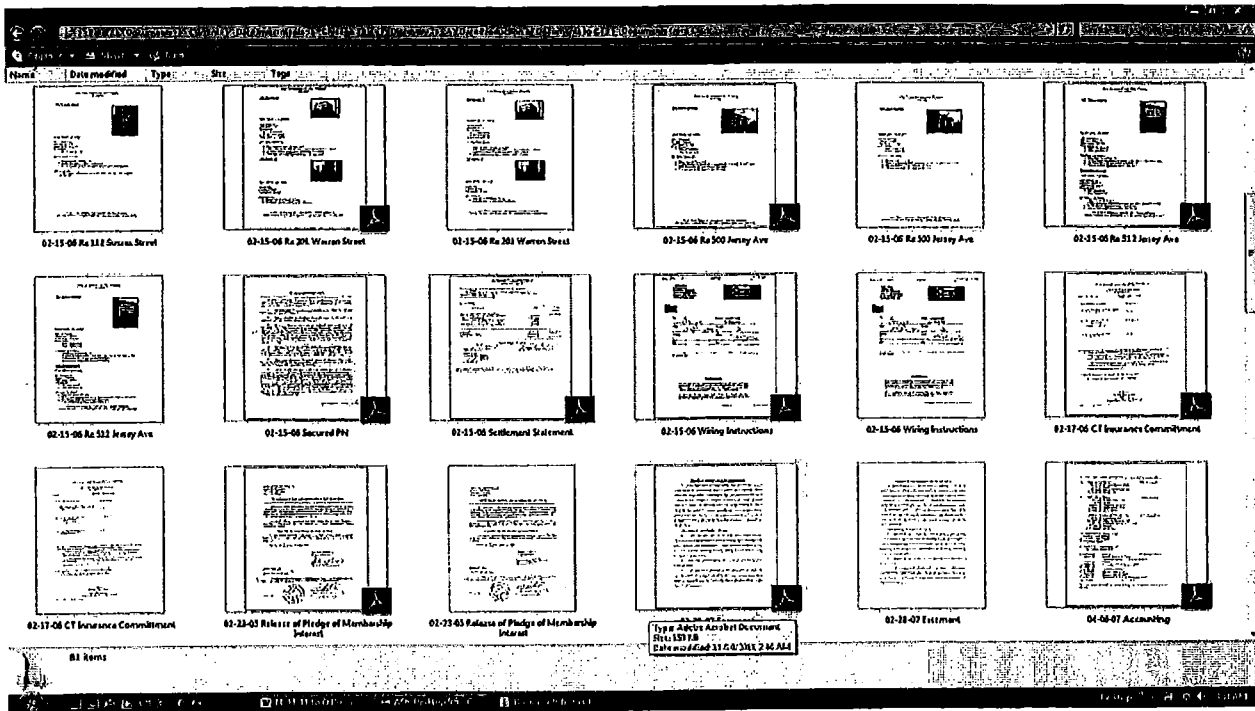
<sup>2</sup> Pursuant to Fed. R. Civ. P. 26(b) (1), "parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense" and "the court may order discovery of any matter relevant to the subject matter involved in the action", although "relevant information need not be admissible at trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence". Courts refuse to order discovery if the information being sought is (1) irrelevant to the claim or (2) protected by a recognized privilege. See Pearson v. Miller, 211 F.3d 57, 65 (3d Cir. 2000). The

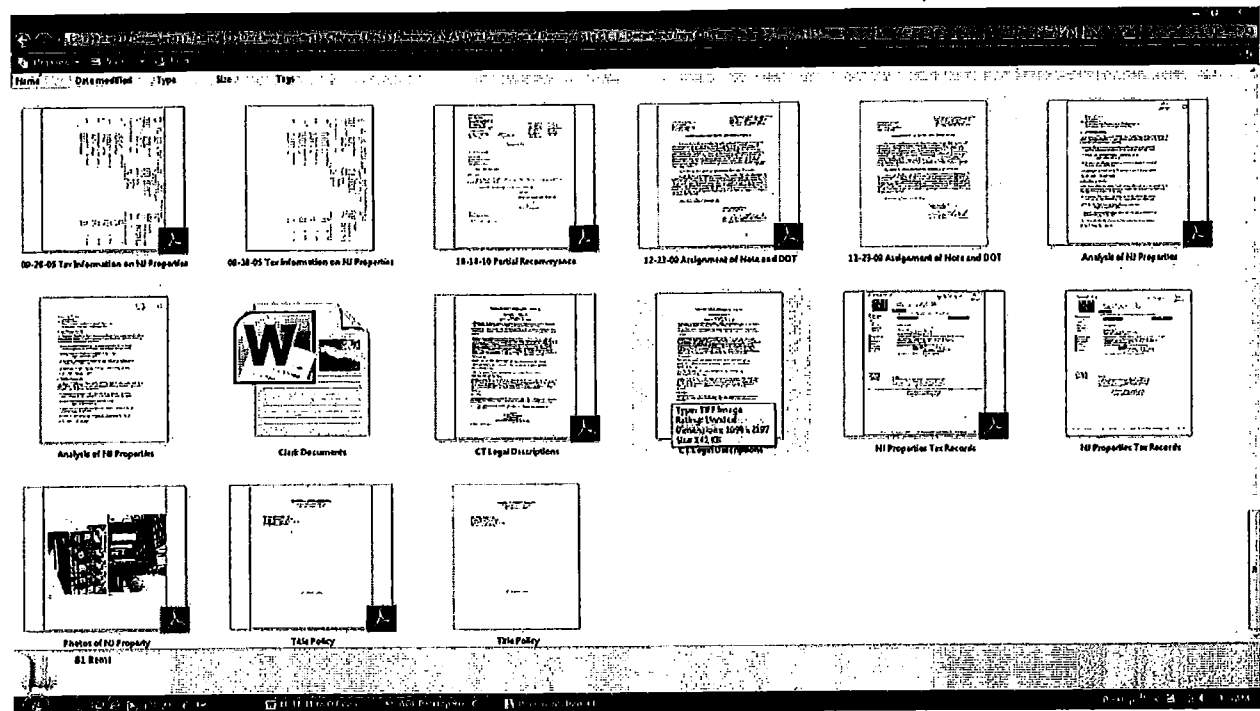
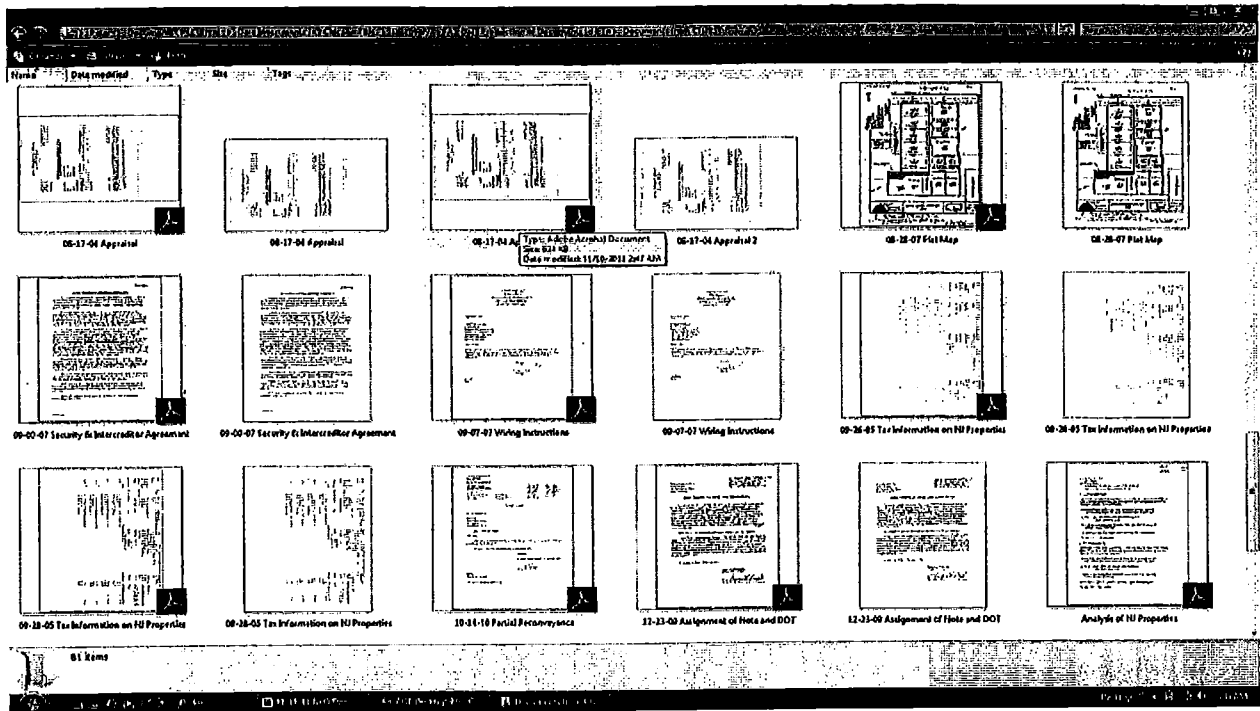
The documentation in my possession is maintained electronically and, unfortunately, I do not have the ability to bates stamp PDF documents and TIFF images. To the extent that the documents came to me in TIFF images I converted them to PDF; nonetheless, I am forwarding such documents in both formats to make sure you receive what I have. Instead of bates stamping, I chose to identify the documents by first page image and name identification. For ease of review, I have grouped the documents by subject matter:

### 1. Relating to Clark:

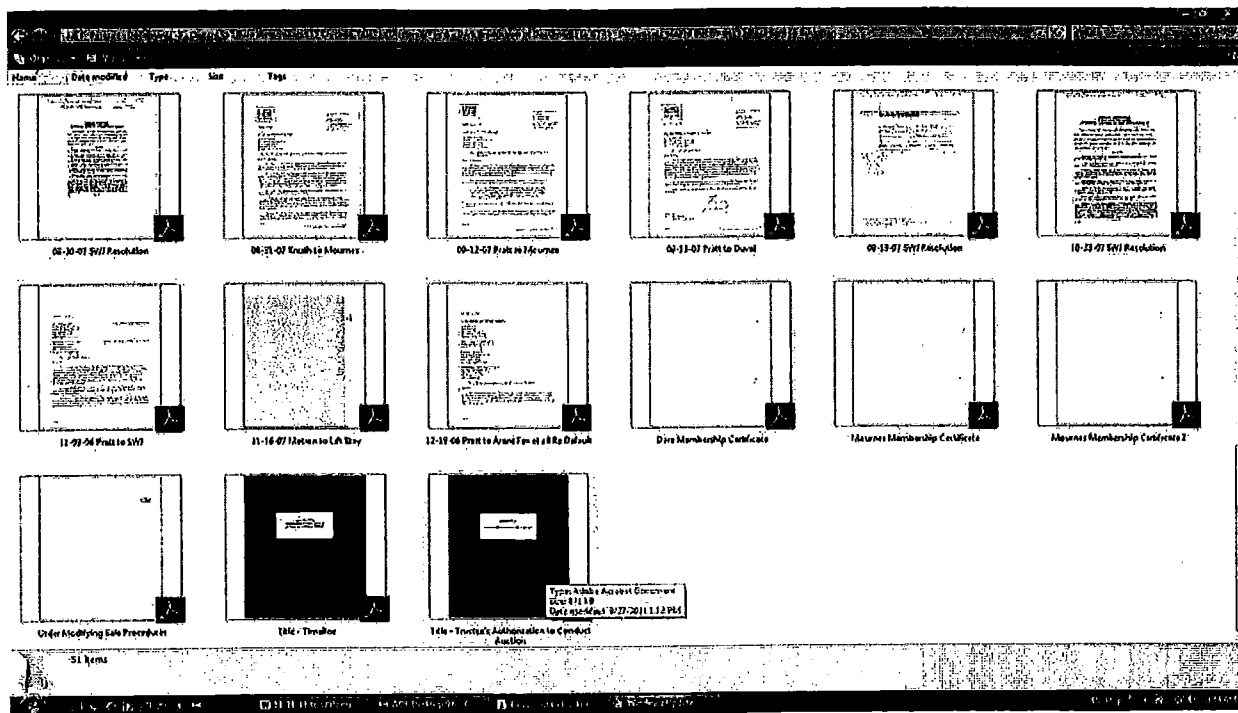


presumption that relevant matter is discoverable, however, is defeasible. Rule 26(c) grants federal judges the discretion to issue protective orders that impose restrictions on the extent and manner of discovery where necessary "to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense." Fed. R. Civ. P. 26(c). Id.

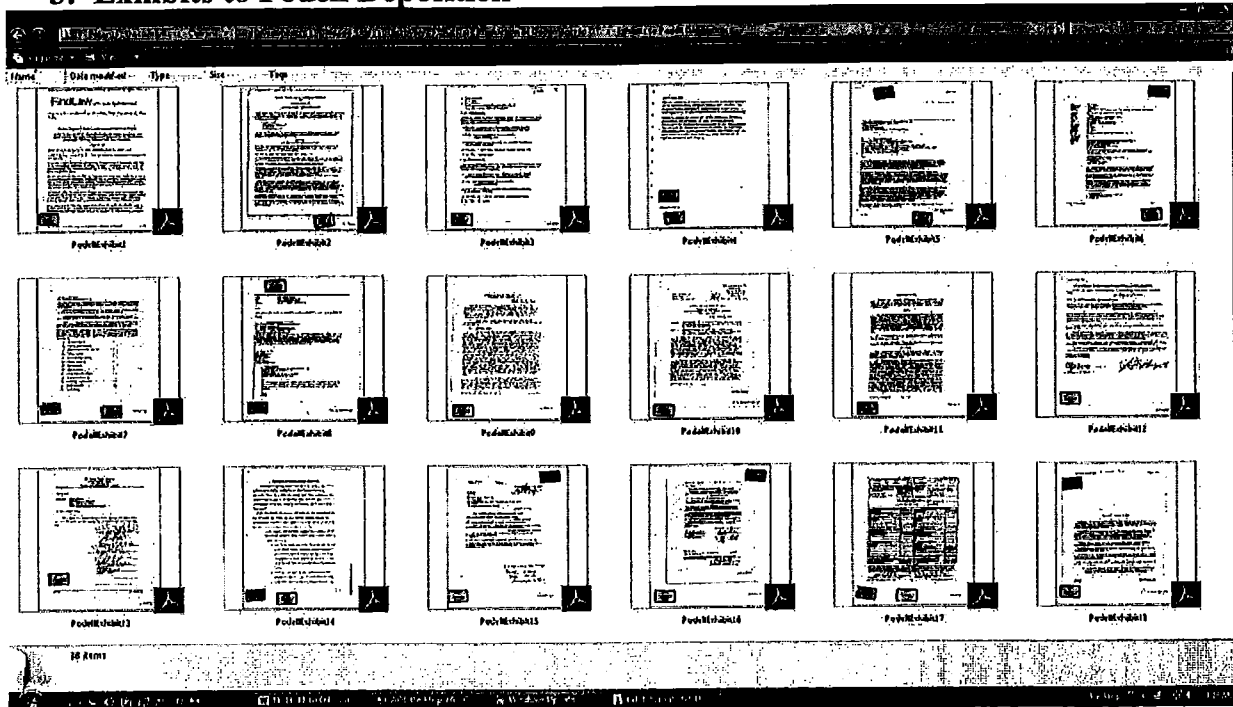


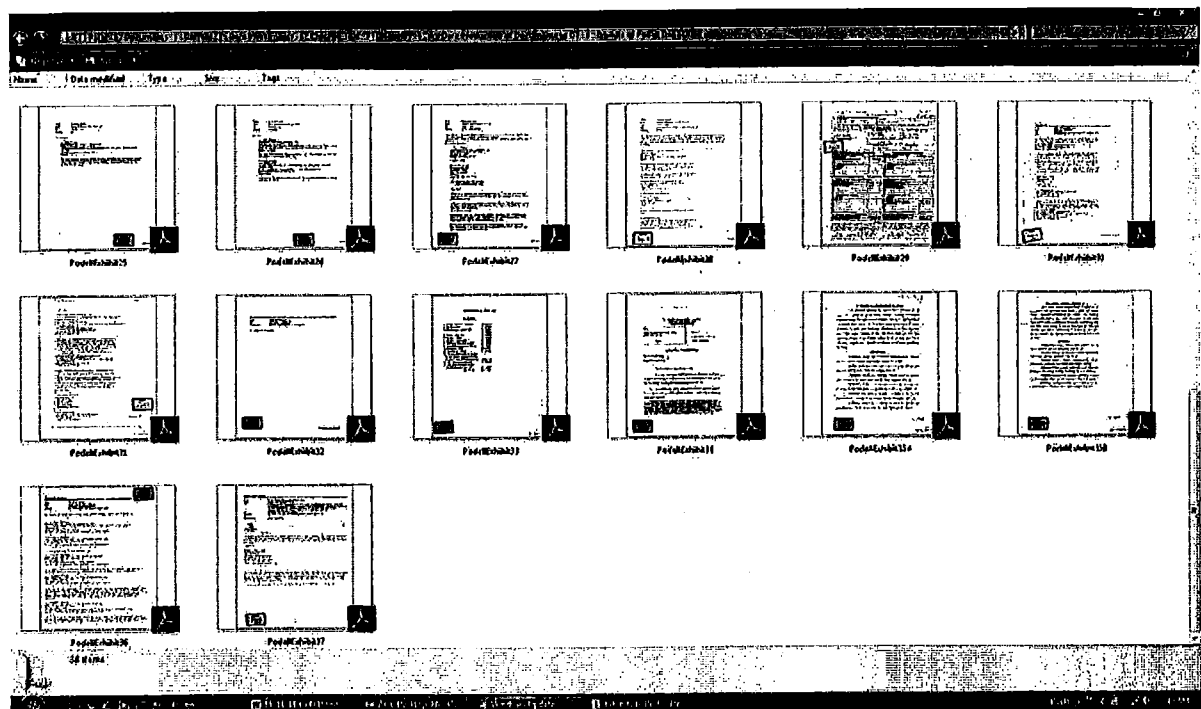
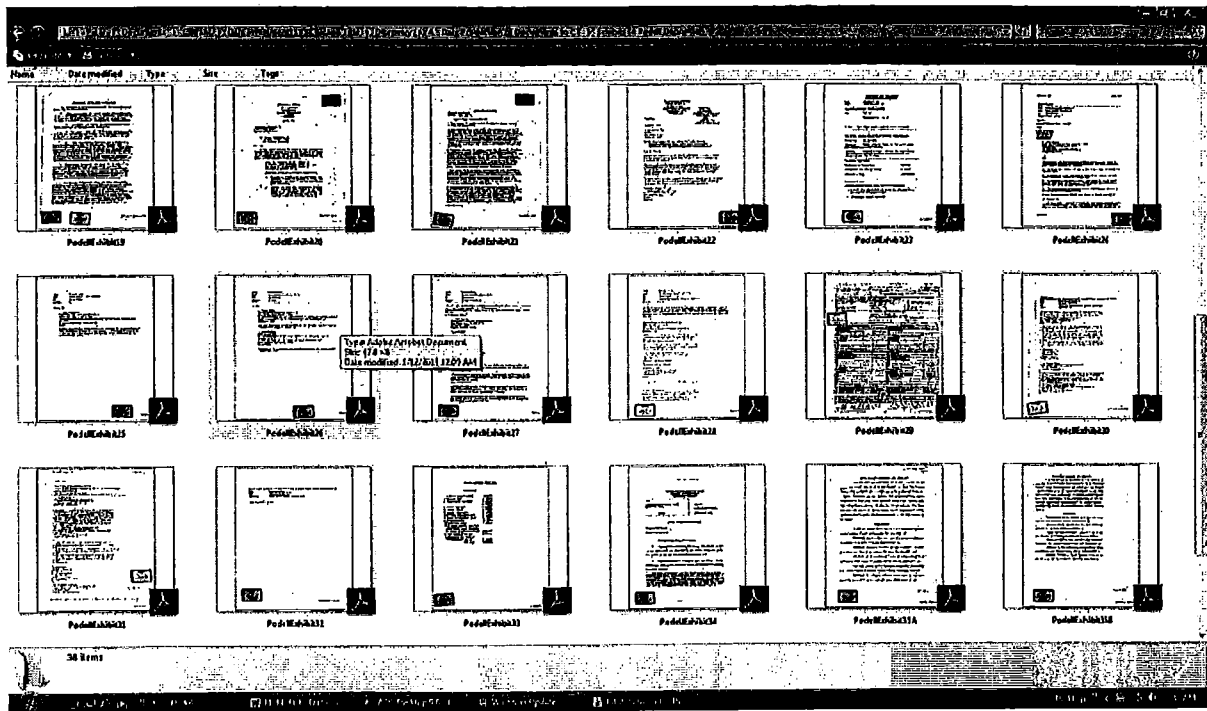






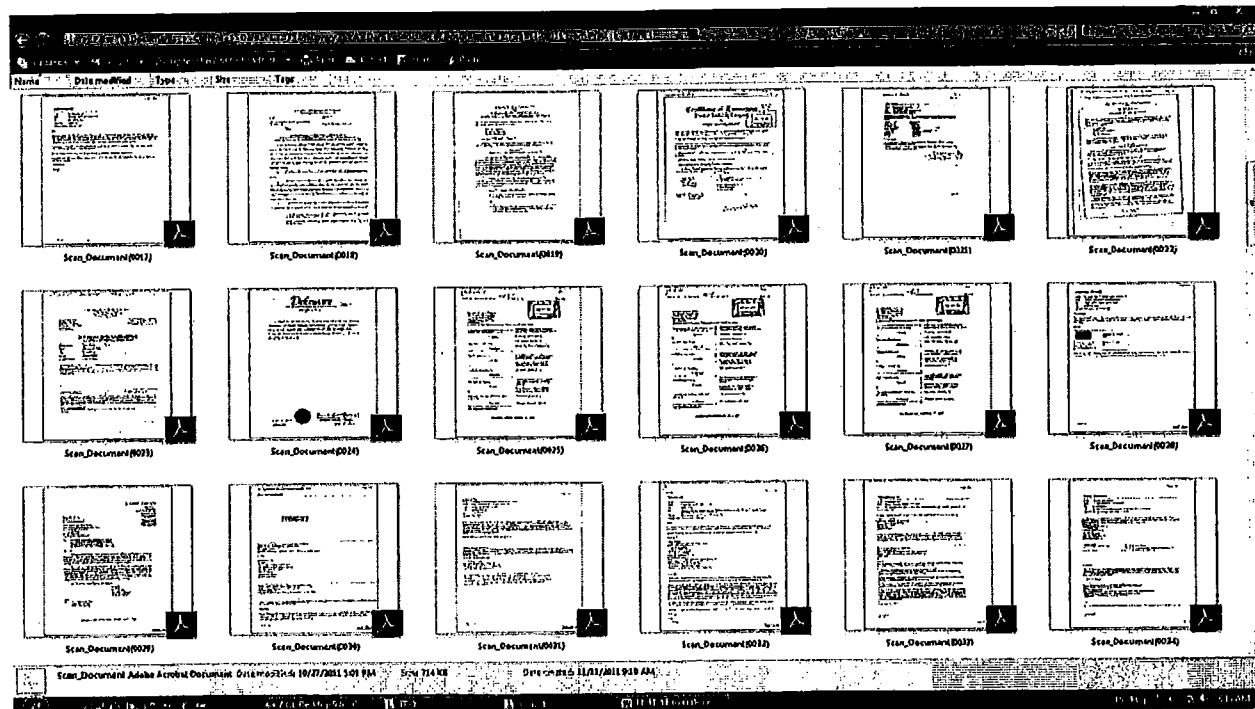
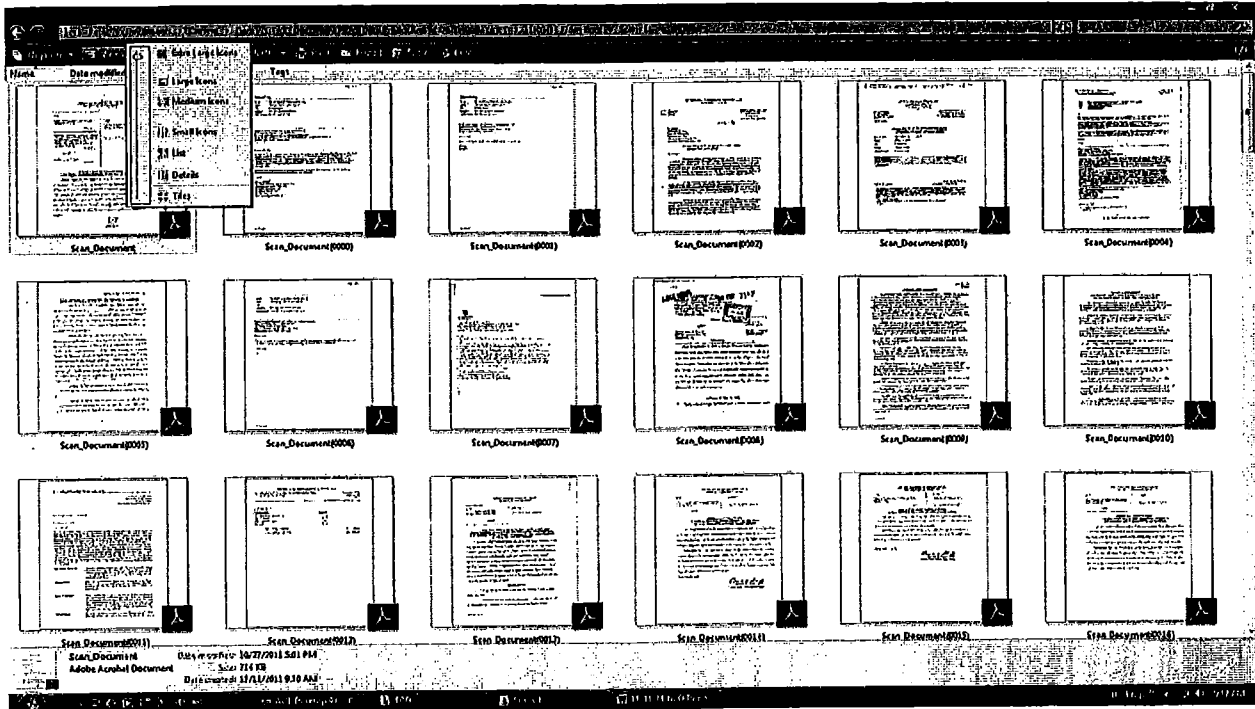
### 3. Exhibits to Podell Deposition

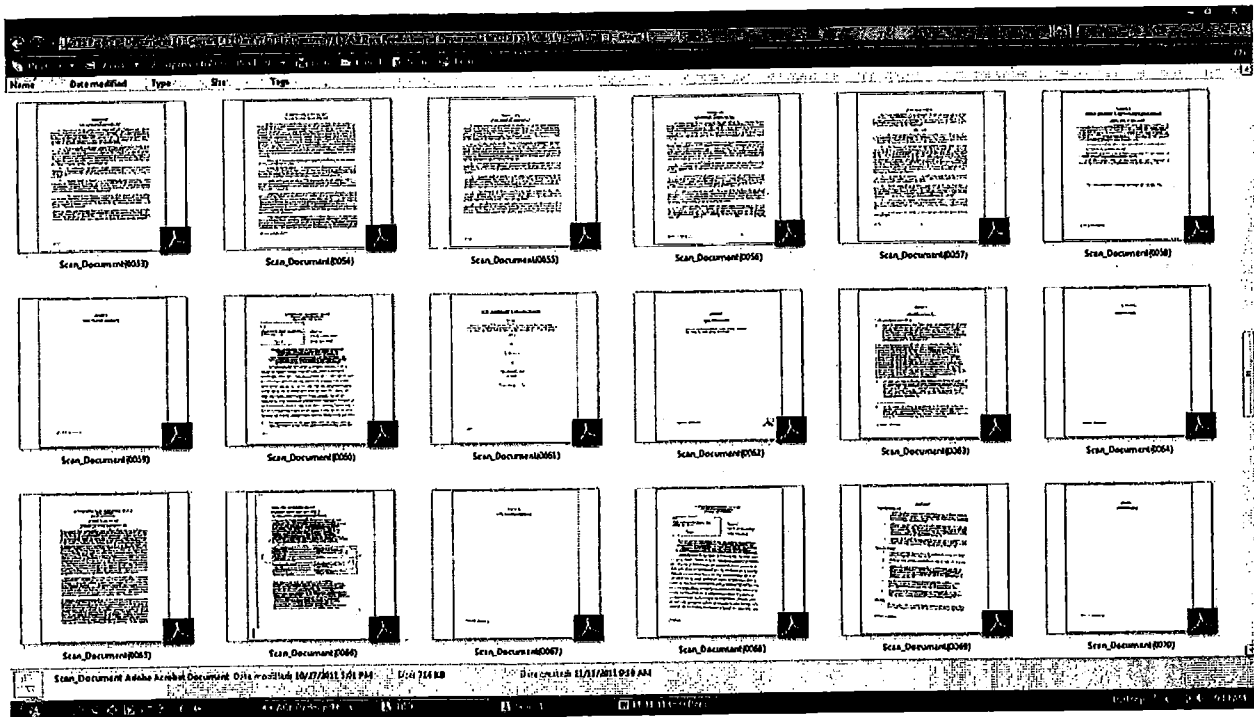
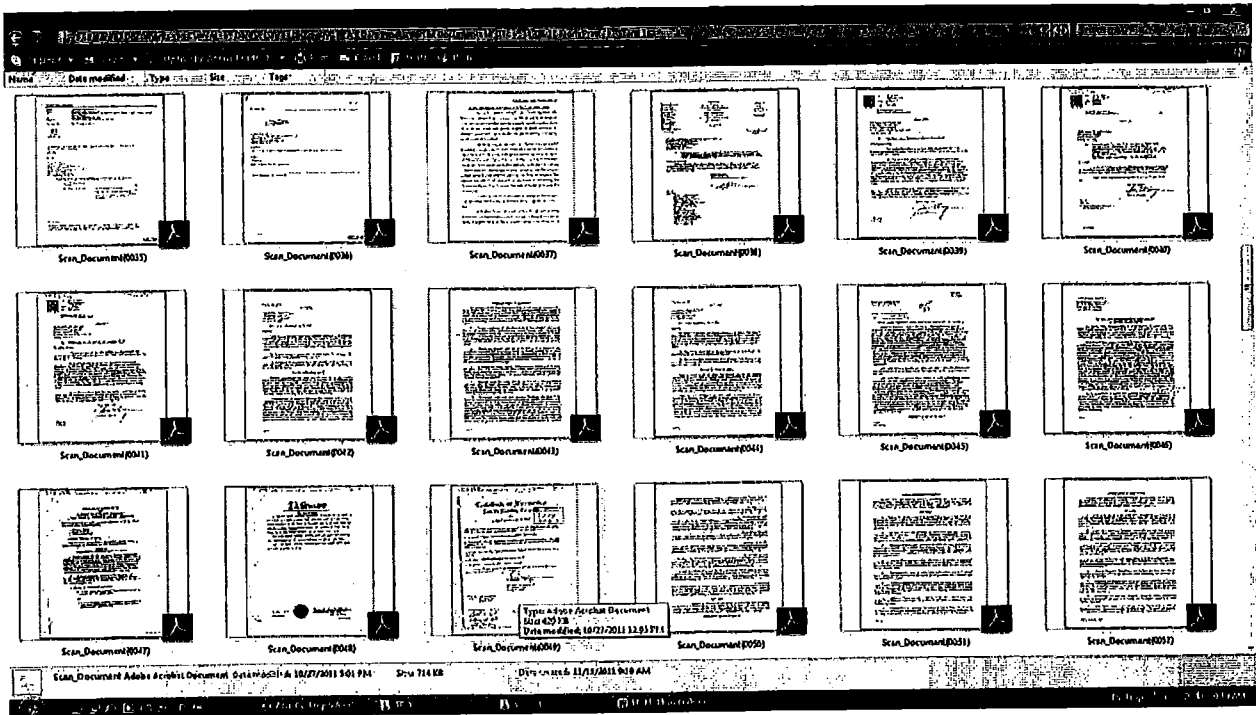


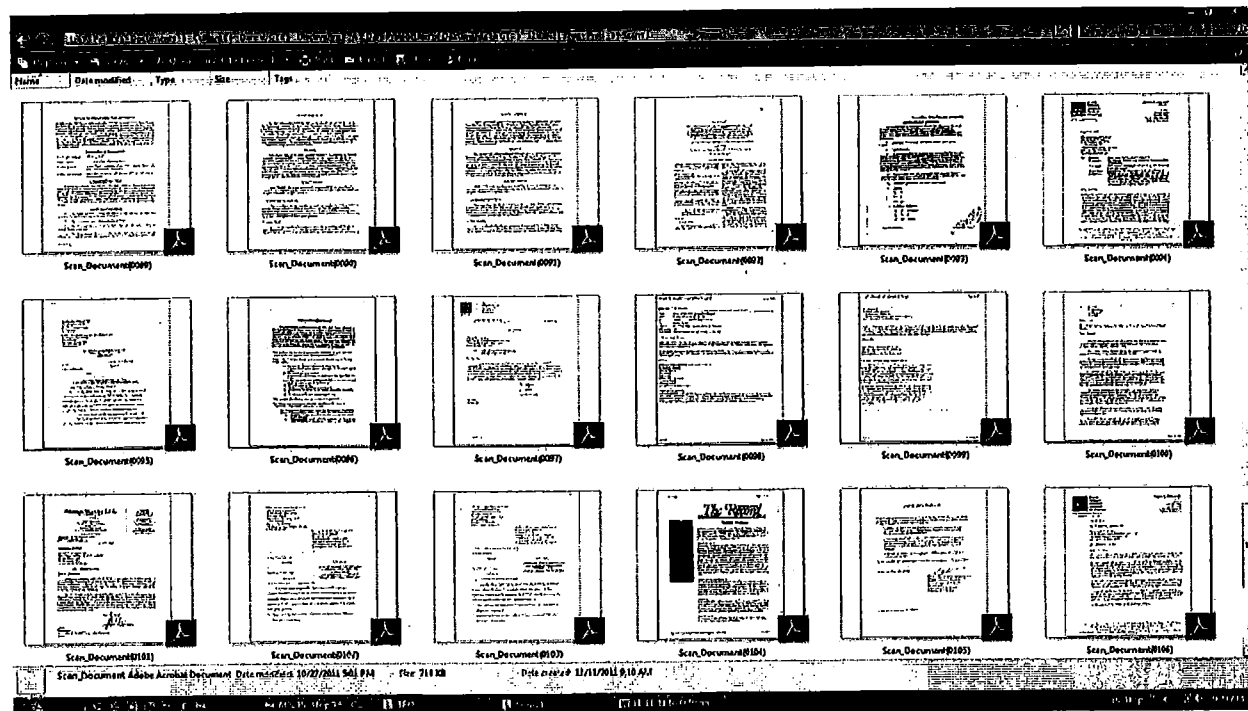
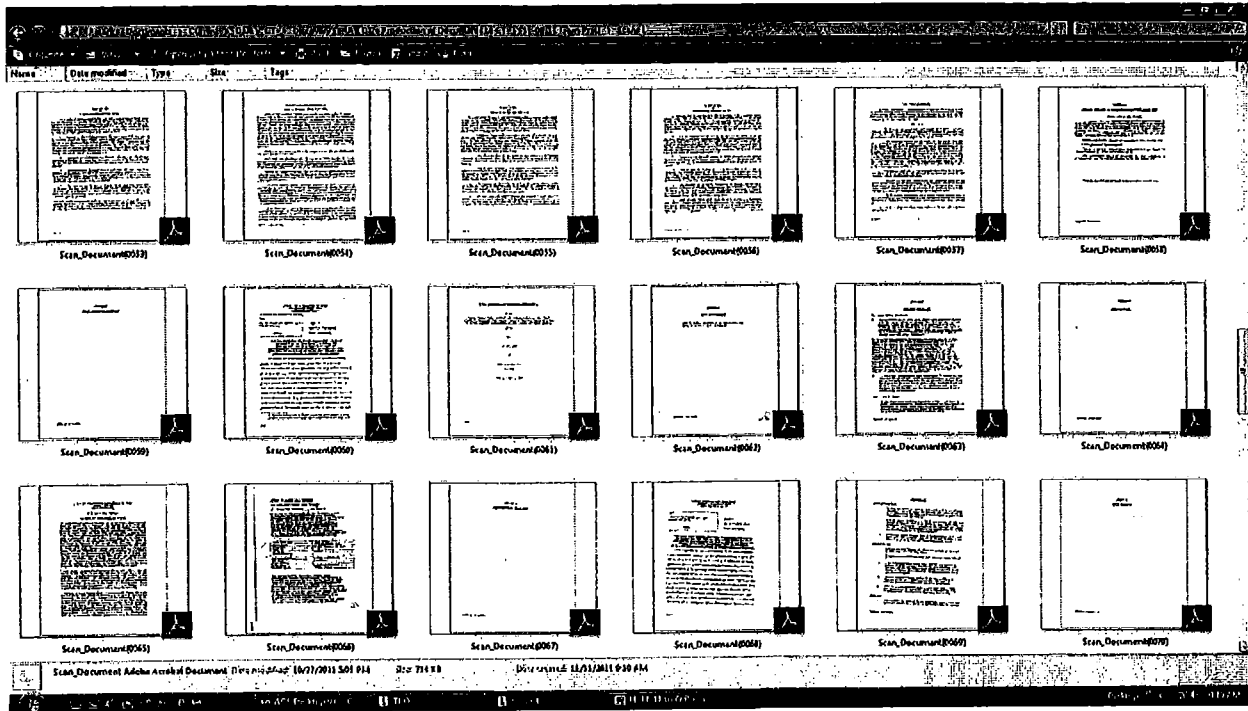


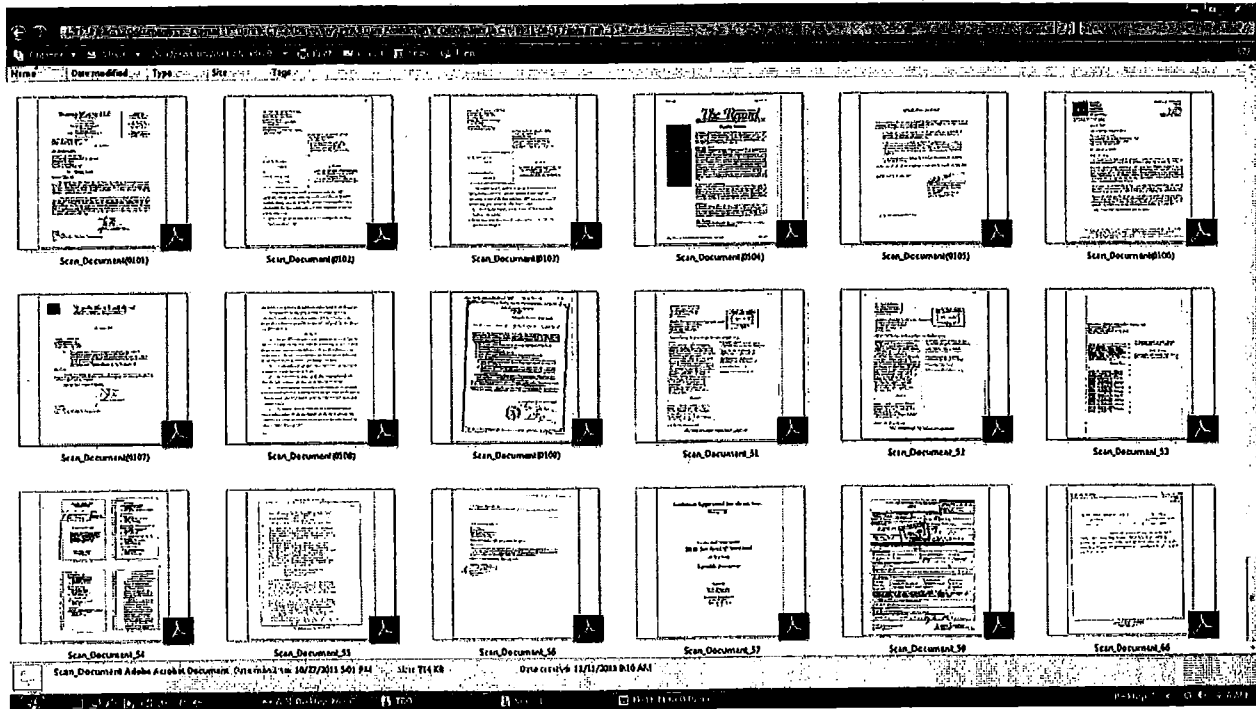
#### 4. Documents Relating to SWJ Sale and CT Policy Produced by George Pratt

a. Scans 1

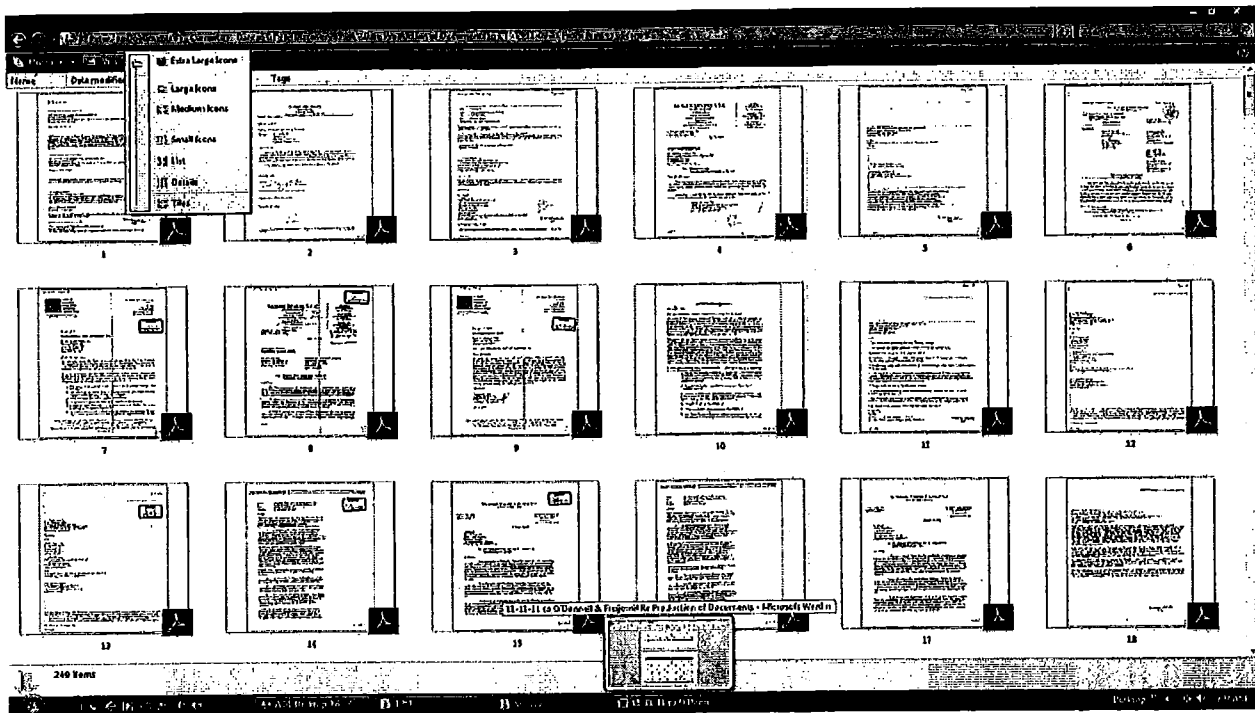


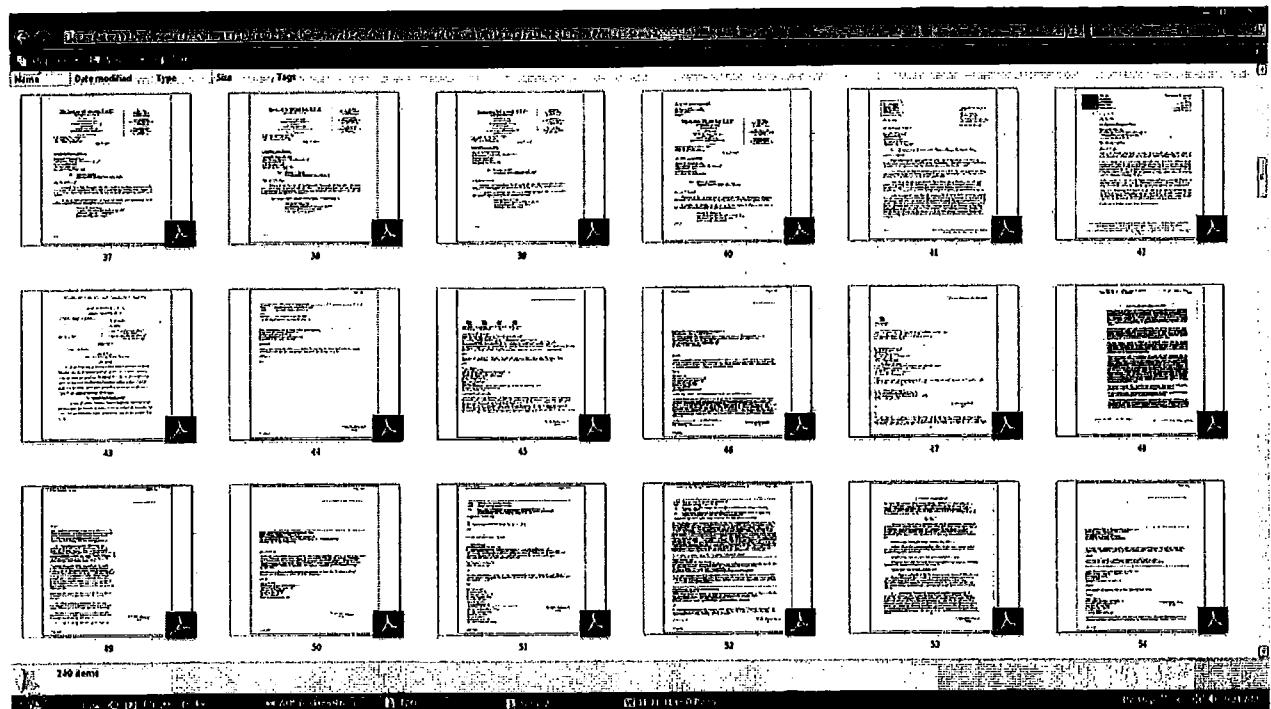
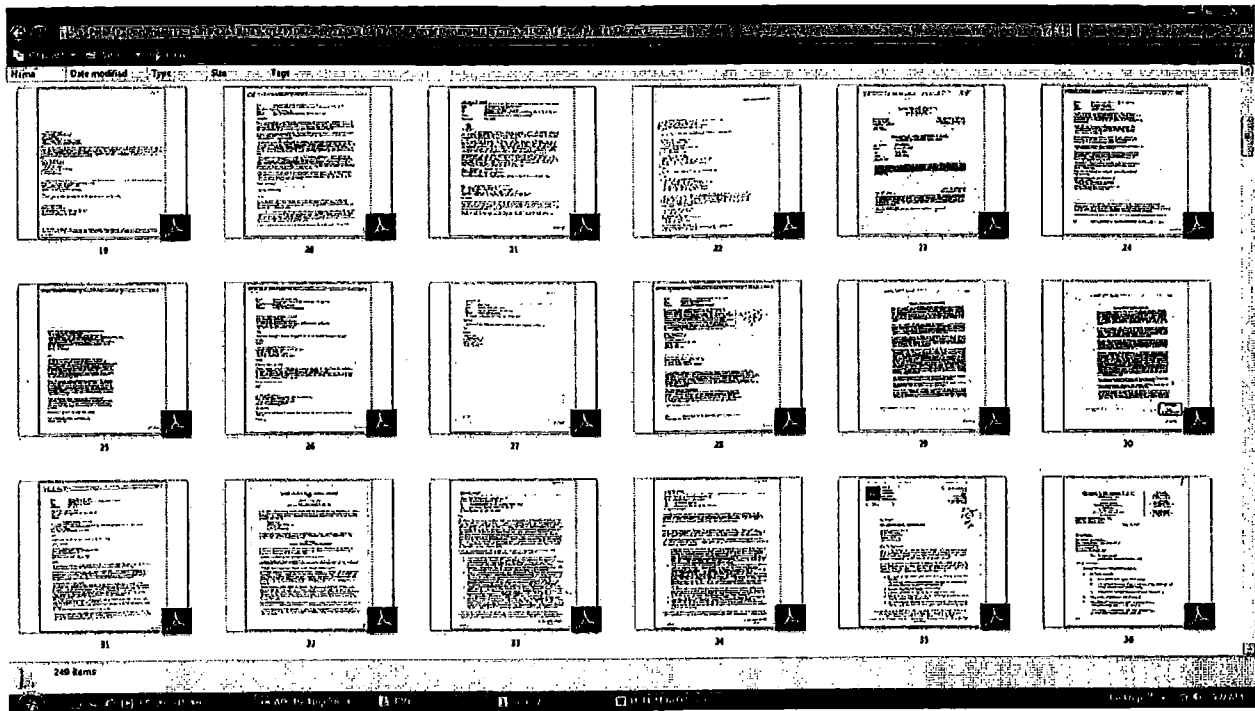


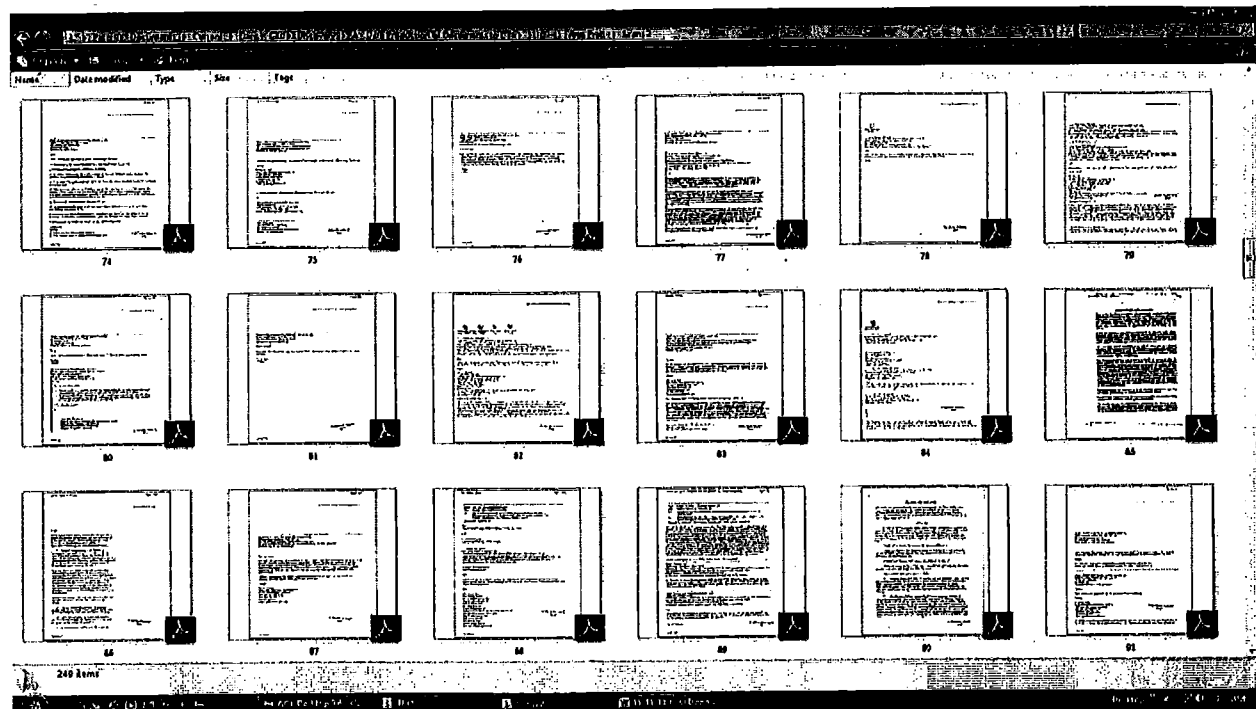
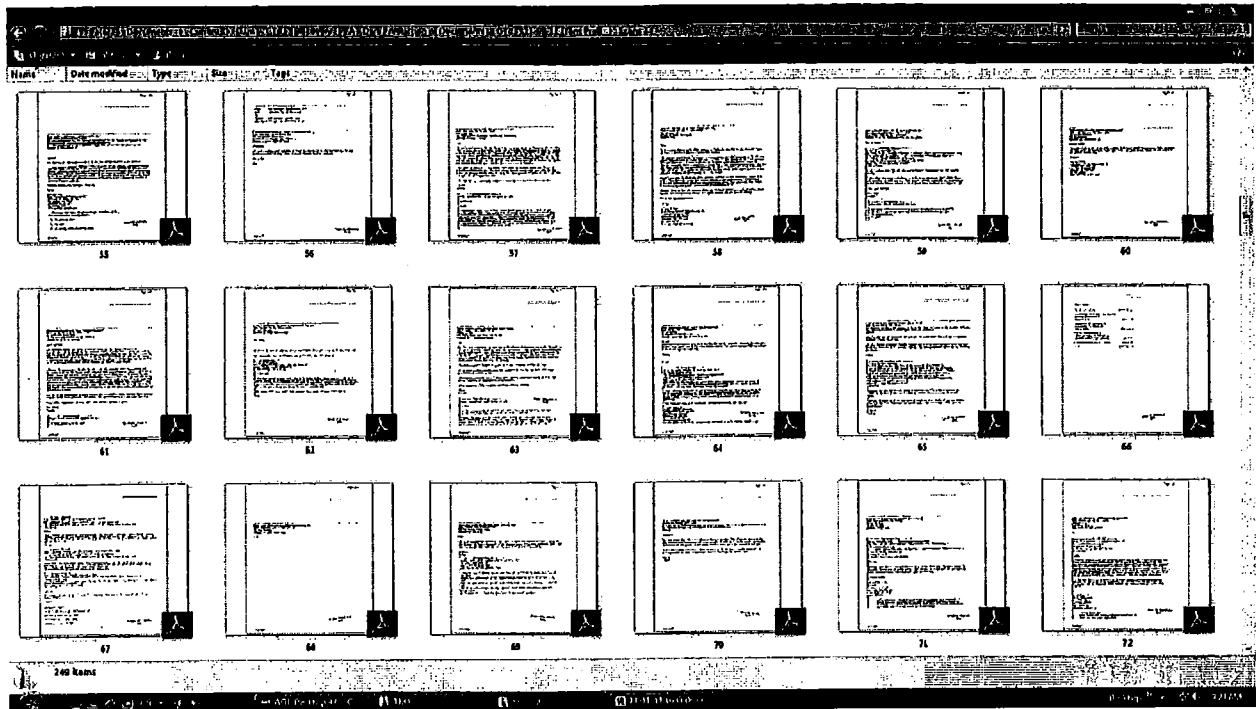


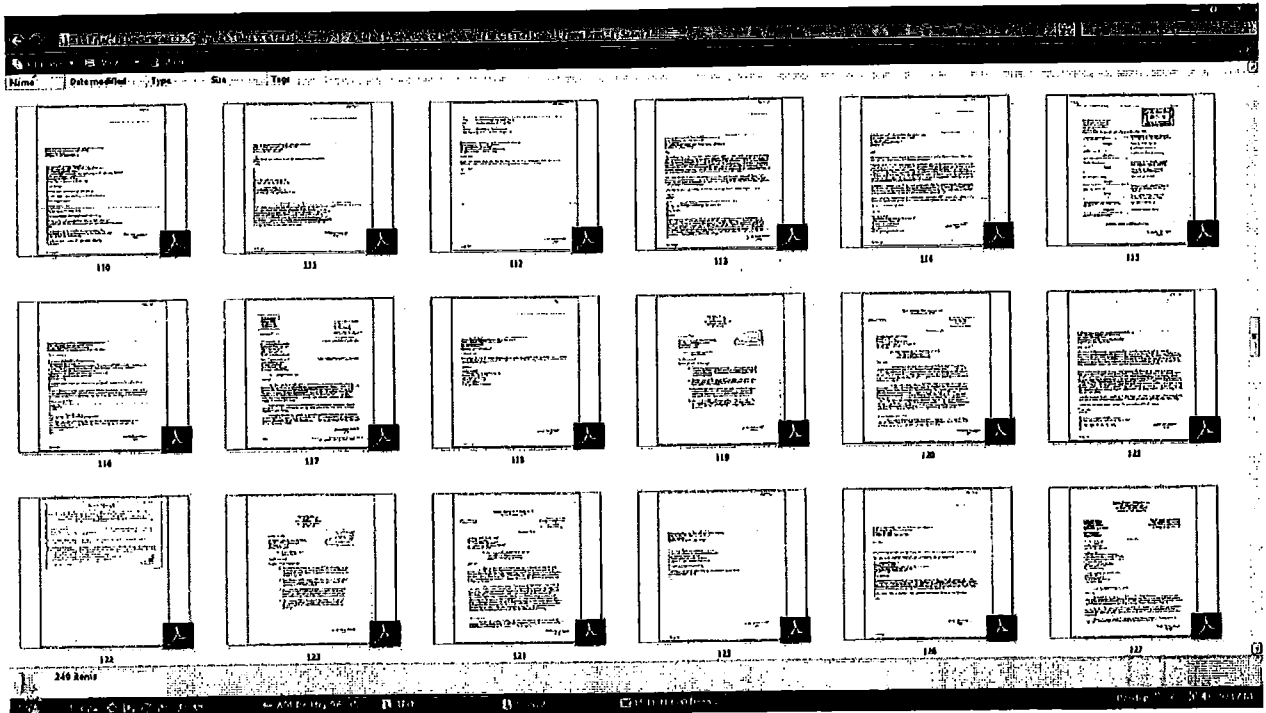
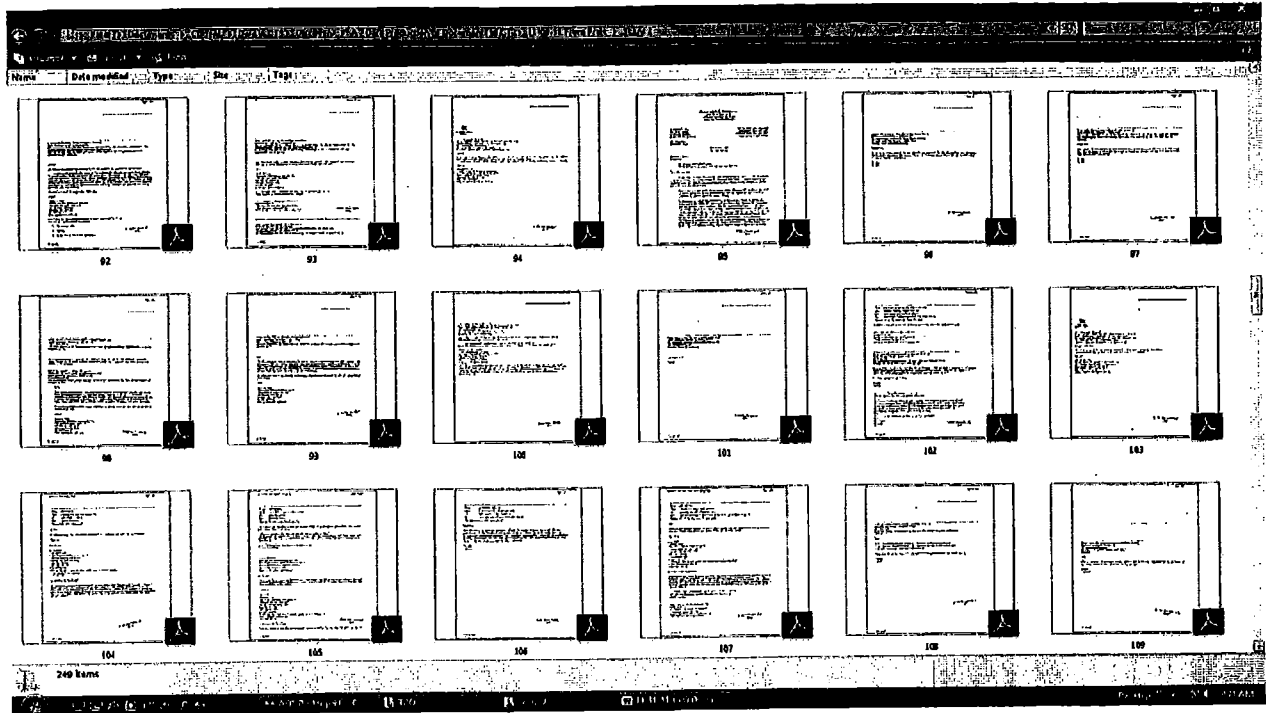


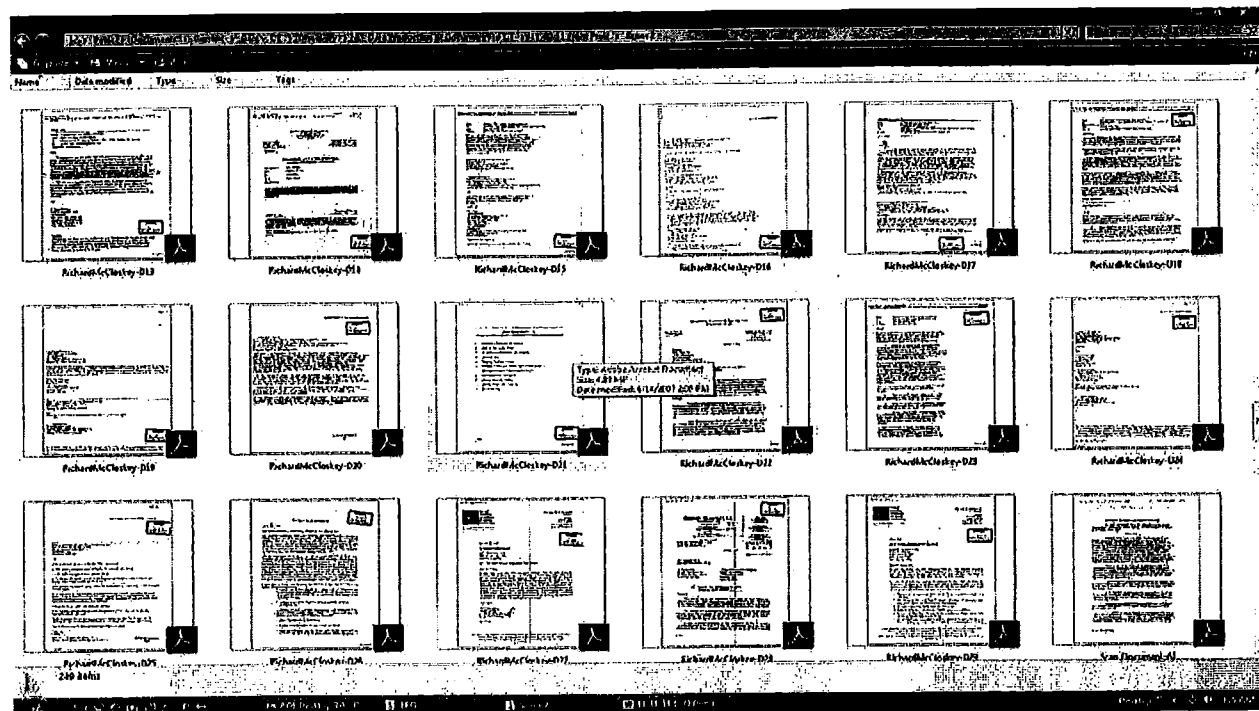
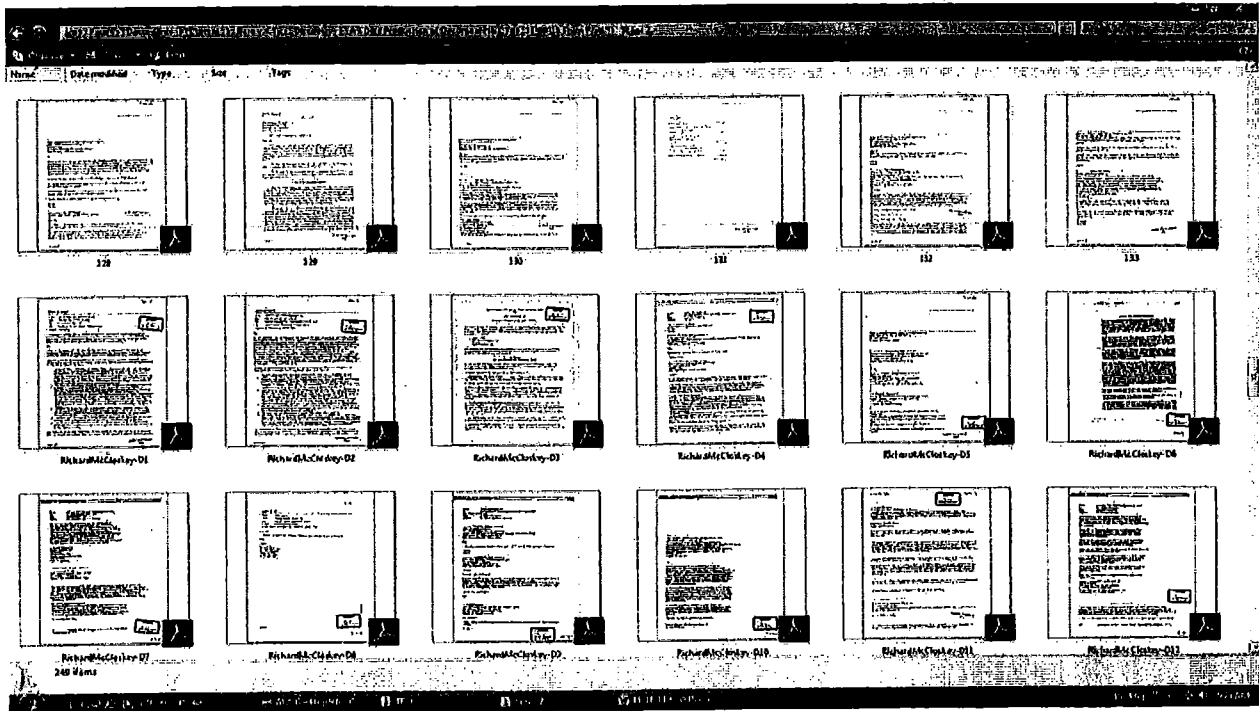
**b. Scans 2**

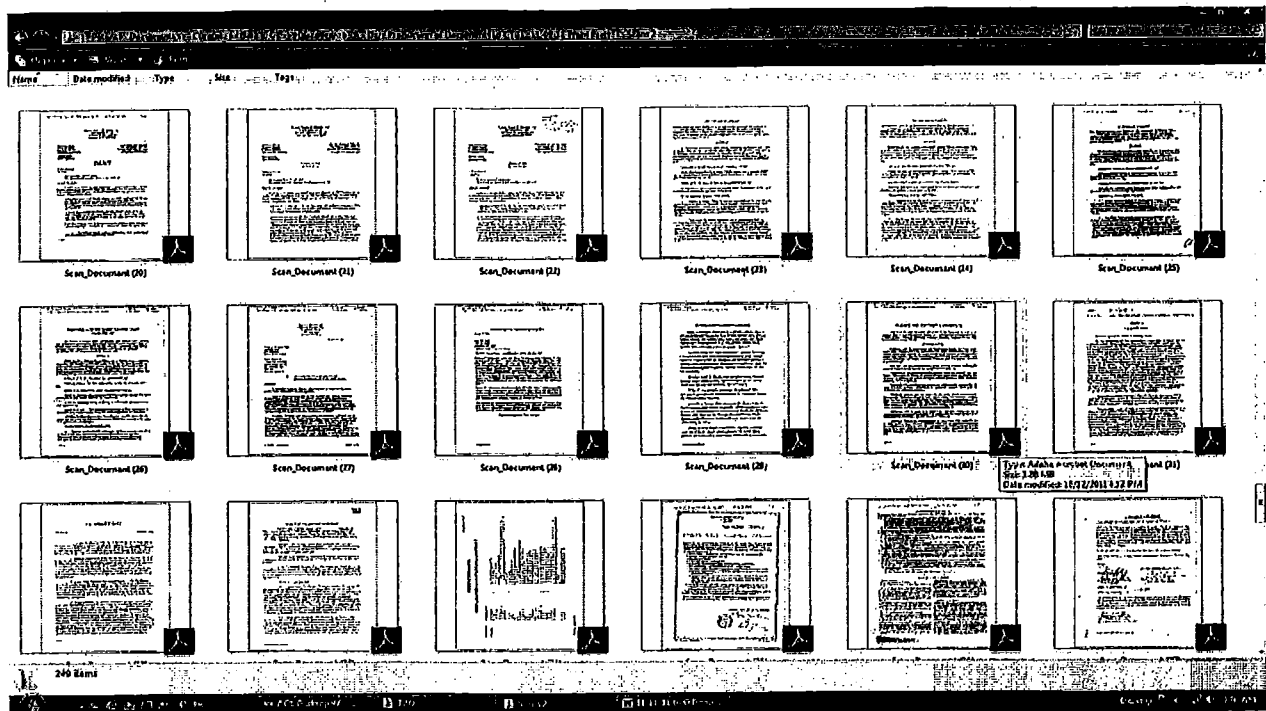
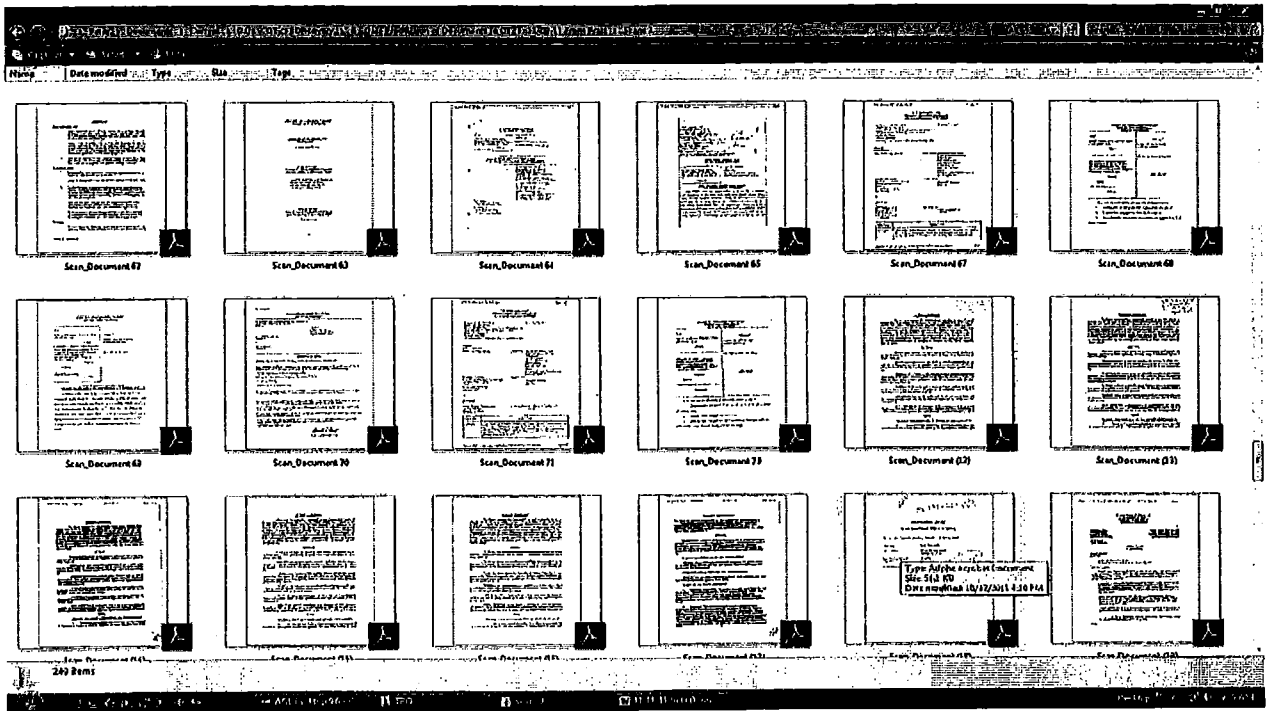


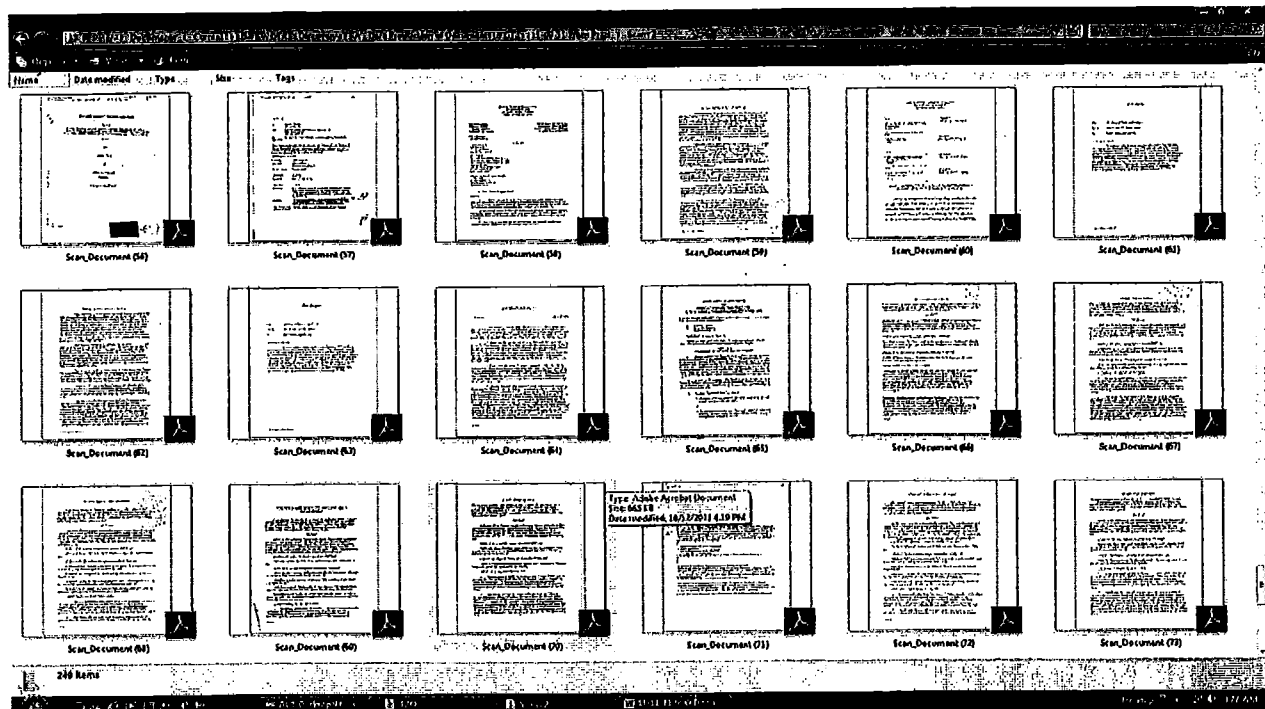
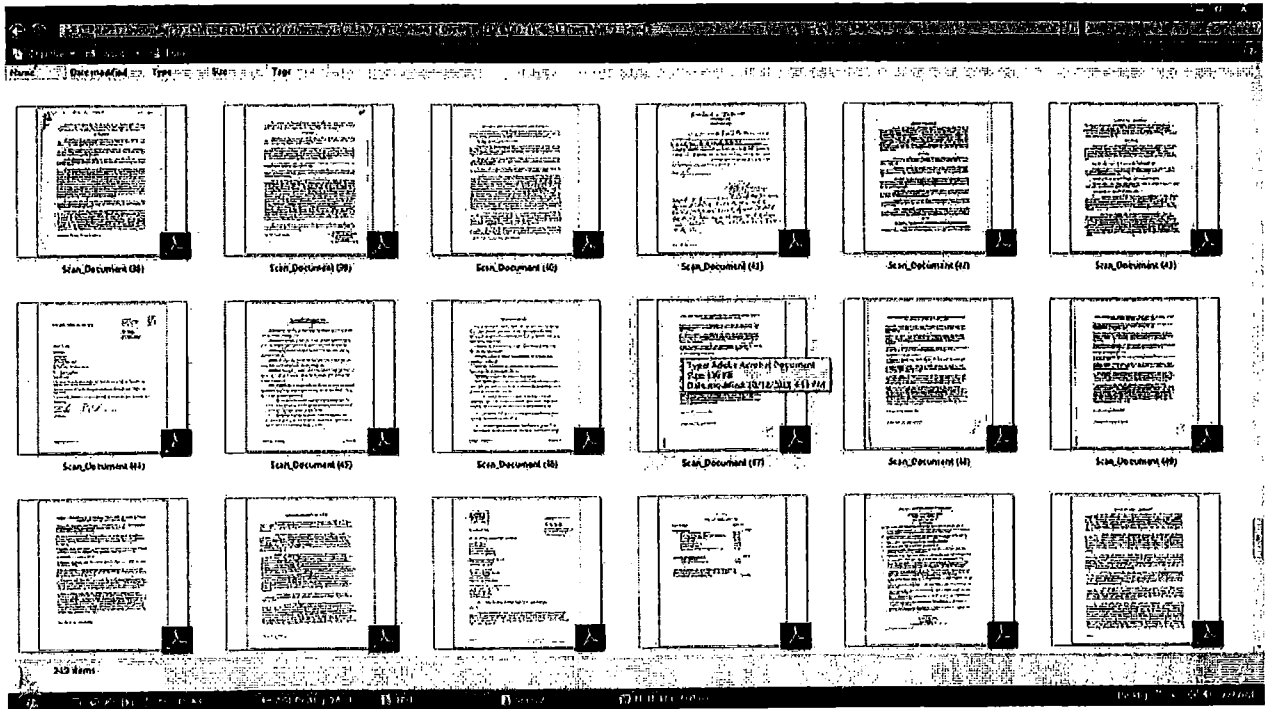


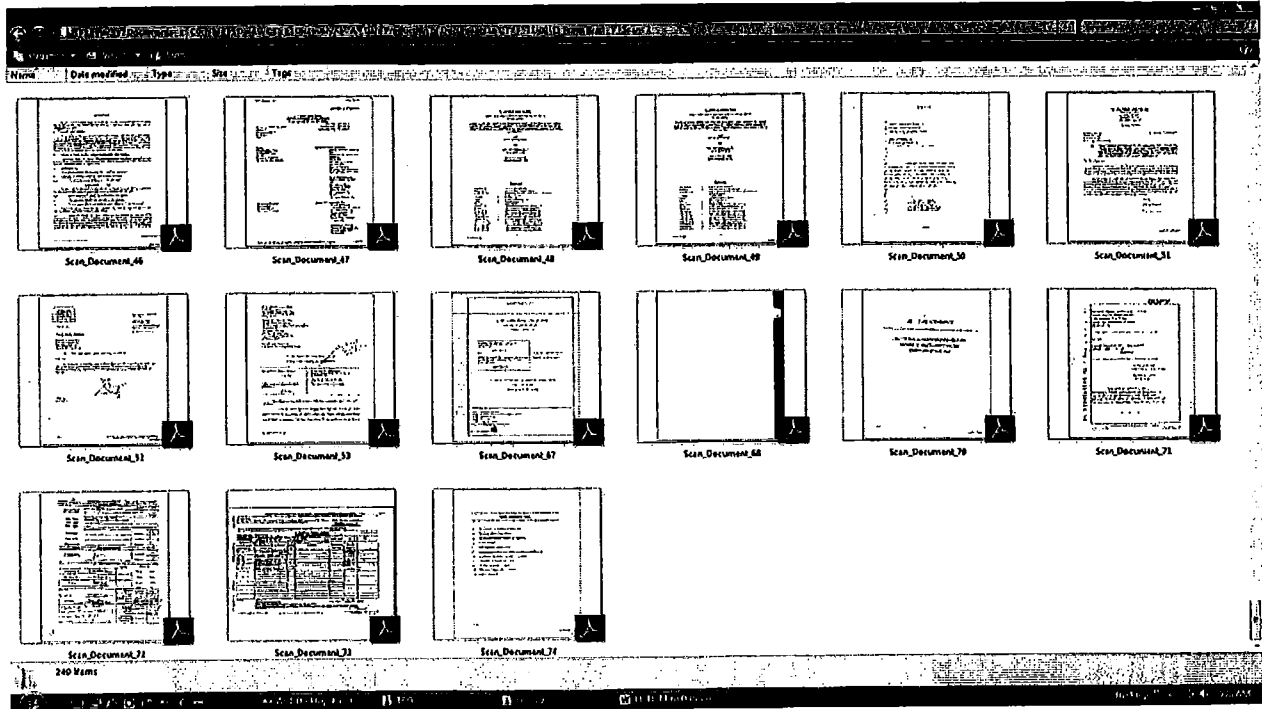




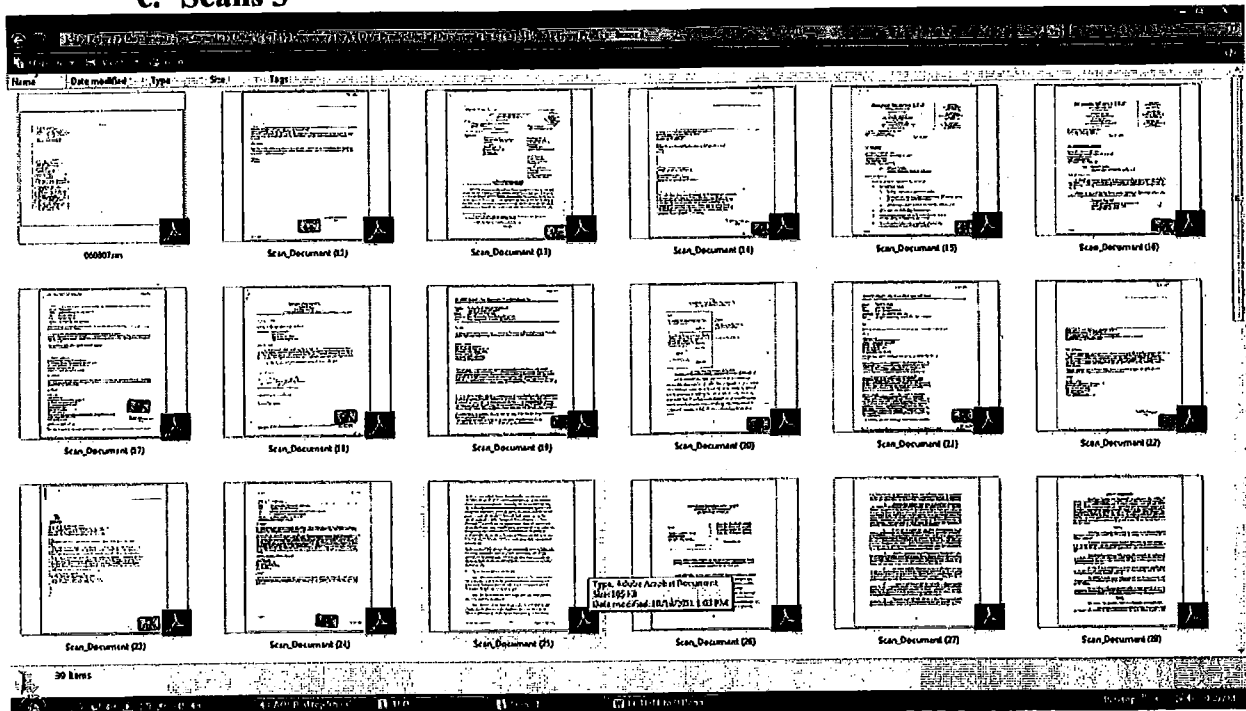


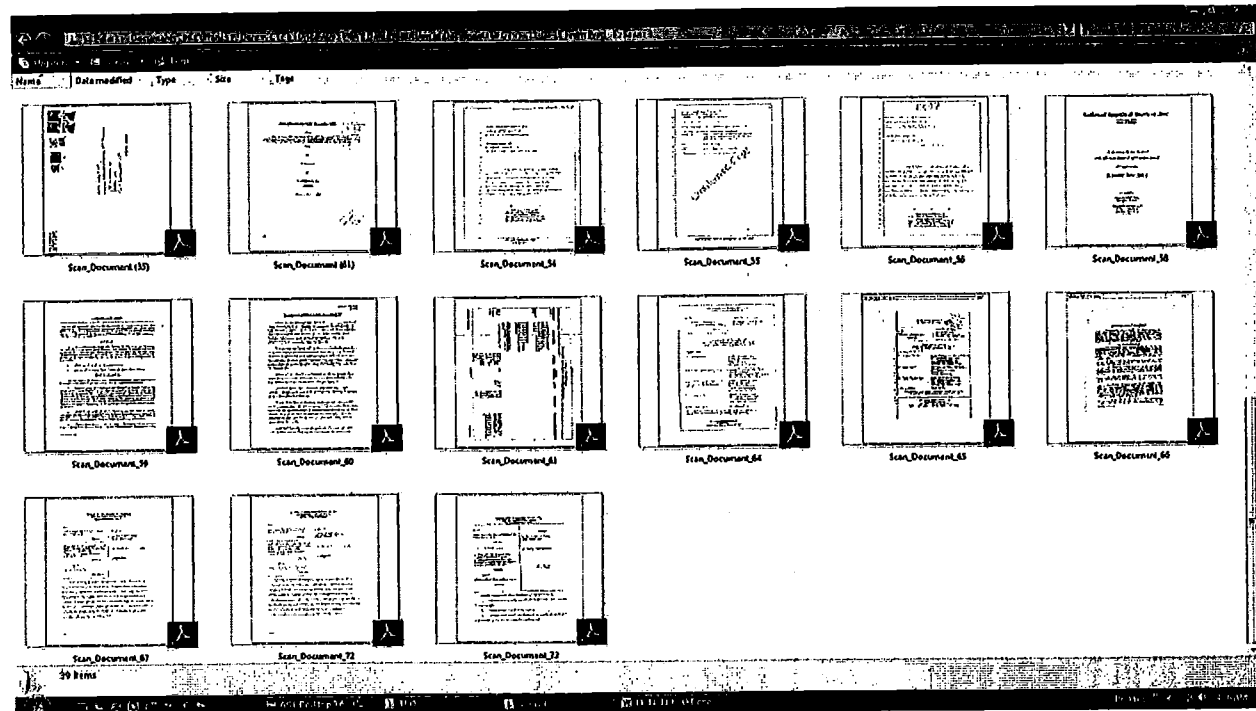
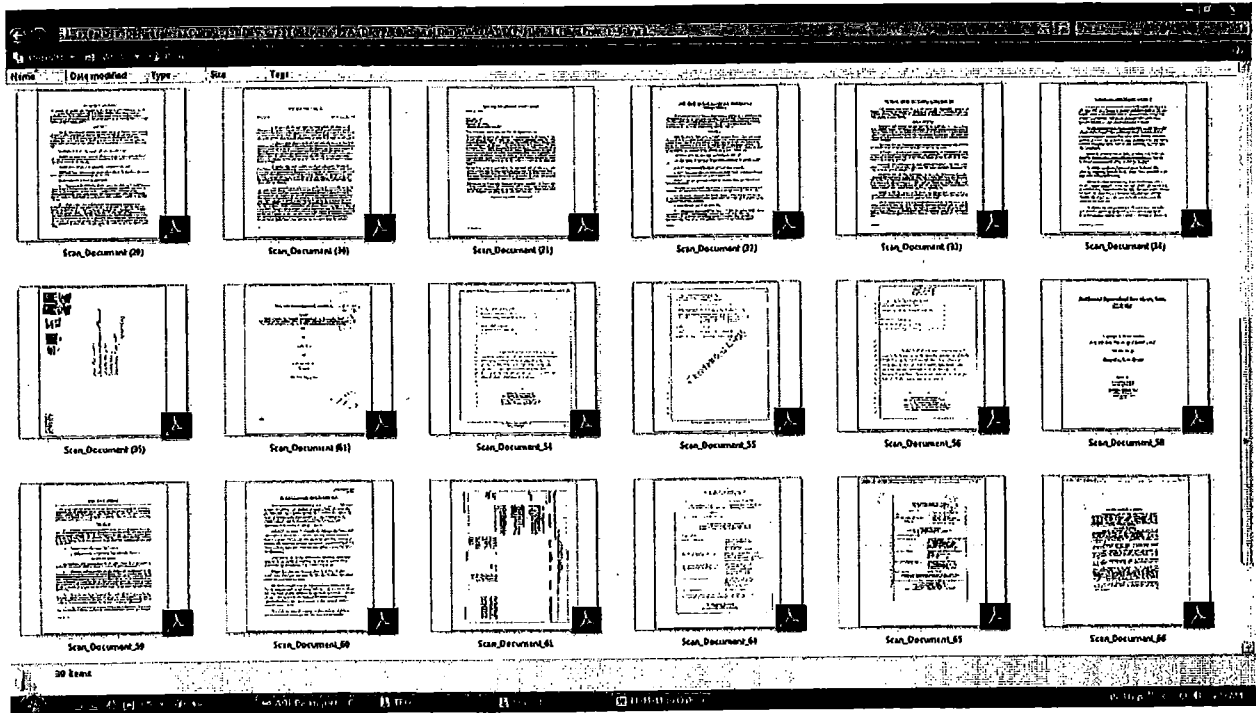


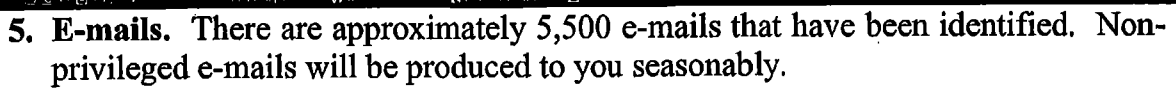




### c. Scans 3



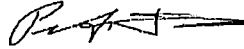




## Page 20 of 21

The documents are being delivered to you by US Mail in electronic form. We continue searching for additional documents that may have any relevance to the remaining issue in the case.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Peter Strojnik", with a stylized flourish at the end.

Peter Strojnik

PJS: ps

CC: Client *by e-mail only*

# **Exhibit 16**

Peter Strojnik  
STROJNIK, P.C.  
Arizona Bar No 006464  
Direct Dial: 602-524-6602

**STROJNIK, P.C.**  
**LAWYERS**

Peter K. Strojnik  
THE STROJNIK FIRM, LLC  
Arizona Bar No 026082  
California Bar No 242728  
Of Counsel

November 17, 2011

Michael O'Donnell, Esq.  
Derrick Freijomil, Esq.  
Riker, Danzig, et al  
Headquarters Plaza  
One Speedwell Avenue  
Morristown, NJ 07962-1981  
By e-mail only [modonnell@riker.com](mailto:modonnell@riker.com)  
[dfreijomil@riker.com](mailto:dfreijomil@riker.com)

Re: *Dare Investments, LLC v. Chicago Title*  
NO. 2:10-cv-06088-DRD-MAS

Dear Mike and Derrick:

This responds to Derrick's 11-16-11 e-mail and Mike's 11-15-11 e-mail regarding the First Amended Complaint, and addresses some of the current litigation issues. I attach the First Amended Complaint with the change proposed by Mike, with 2 exhibits, and a proposed Stipulation for your review and comment. If you are satisfied with the Stipulation, please file it along with the 1<sup>st</sup> Amended Complaint and exhibits 1 & 2.

During the conference with Judge Shipp, Derrick mentioned that CT is asserting defenses beyond the interpretation of the policy. I was rather surprised at this since Judge Debevoise made it rather clear that the only remaining issue is the interpretation of the exclusionary provisions of the Policy through which CT disclaims coverage. Please let me know at your earliest opportunity what defenses you claim. Only if we know what your claimed defenses are can we engage in meaningful discovery.

On the matter of discovery, I shared with you earlier that I am taking vacation time during the month of December. I will also take this opportunity to suspend my practice for 30 days and thus resolve some festering issues with the Arizona State Bar. During this time period, the discovery and other issues in the case will be handled by my son Peter K. Strojnik. His contact information is:

2415 EAST CAMELBACK ROAD - SUITE 700 - PHOENIX, ARIZONA 85016  
TEL: 602.553.1112 - FAX: 602.296.0135  
E-MAIL: [PS@STROJNIK.COM](mailto:PS@STROJNIK.COM) - [WWW.STROJNIK.COM](http://WWW.STROJNIK.COM)

Peter K. Strojnik  
**THE STROJNIK FIRM LLC**  
2415 East Camelback, Suite 700  
Phoenix, Arizona 85016  
Telephone: 602-510-9409  
e-mail: Strojnik@skplaw.com

Peter is an excellent attorney. He has worked in California for several years in a highly charged Silicon Valley litigation environment, and moved to Arizona about 3 years ago where he continues his litigation practice. Please copy him on all future correspondence.

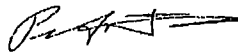
We have previously discussed various depositions but, as of this writing, no particular dates have been agreed to. Please let me know two consecutive dates during the weeks of January 9 or 16 to take depositions of Mr. Cohn and CT. If you wish, we can schedule the deposition of Mr. McCloskey either the day prior or the day after these depositions. To the extent that we can agree on taking these three depositions on consecutive days, we will stipulate to take them at your offices.

I will depose Mr. Duval during this time period, depending on Mr. Duval's availability and your selection of dates for Mr. Cohn and CT. You may want to take the deposition of Mr. Clark during the same time period to avoid two trips to the West. As we discussed earlier, if you agree to take Mr. McCloskey's deposition in SLC, I can make arrangements to bring Mr. Clark from Pocatello to SLC for his deposition.

We have not received the copies of documents produced to you pursuant to the Dunn, Torkelson, Mocco, Scarpone, Gubler, Podell, Mournes and Clark Subpoenas. Can you forward copies of those documents to us?

Thank you in advance for your anticipated cooperation.

Very Truly Yours,



Peter Strojnik

PJS: ps  
CC: Client by e-mail only  
PKS by e-mail only

# **Exhibit 17**

7020 2780 0003 5558 1895

2415 EAST CAMELBACK ROAD • SUITE 700 • PHOENIX, ARIZONA 85016  
TEL: 602.553.1112 • FAX: 602.296.0135  
E-MAIL: PS@STROJNIK.COM • WWW.STROJNIK.COM

Peter Strojnik  
STROJNIK, P.C.  
Arizona Bar No 006464  
Direct Dial: 602-524-6602

## STROJNIK, P.C. LAWYERS

Peter K. Strojnik  
THE STROJNIK FIRM, LLC  
Arizona Bar No 026082  
California Bar No 242728  
Of Counsel

November 21, 2011

Honorable Dickinson R. Debevoise  
Judge of the District Court  
Martin Luther King, Jr. Federal Building &  
U.S. Courthouse  
50 Walnut Street  
Newark, NJ 07101

Peter Kristofer Strojnik, Esq.  
The Strojnik Firm, LLC  
2415 East Camelback, Suite 700  
Phoenix, Arizona 85016

Michael O'Donnell, Esq.  
Derrick Freijomil, Esq.  
Riker, Danzig, et al  
Headquarters Plaza  
One Speedwell Avenue  
Morristown, NJ 07962-1981

Chris Humphrey, Esq.  
Humphrey Law LLC  
7 Lothrop Lane  
Cohasset, MA 02025

**ALL BY CERTIFIED MAIL RETURN RECEIPT REQUESTED**

Re: *Dare Investments, LLC v. Chicago Title*  
NO. 2:10-cv-06088-DRD-MAS

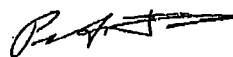
Dear Judge Debevoise and Gentlemen:

I represent Dare Investments in the above captioned matter. Please find enclosed an order suspending my practice for 30 days beginning December 3, 2011.

During my absence, matters will be handled by my son and co-counsel in this matter, Peter K. Strojnik, whose information is set forth below:

Peter K. Strojnik, Esq.  
2415 East Camelback, Suite 700  
Phoenix, Arizona 85016  
e-mail: [strojnik@skplaw.com](mailto:strojnik@skplaw.com)  
Phone: 602-510-9409

Very Truly Yours,



Peter Strojnik

PJS: ps  
Encls

2415 EAST CAMELBACK ROAD - SUITE 700 - PHOENIX, ARIZONA 85016  
TEL: 602.553.1112 - FAX: 602.296.0135  
E-MAIL: PS@STROJNIK.COM - WWW.STROJNIK.COM

**BEFORE THE PRESIDING DISCIPLINARY JUDGE  
OF THE SUPREME COURT OF ARIZONA**

IN THE MATTER OF A MEMBER OF THE  
STATE BAR OF ARIZONA,

**PETER STROJNIK**  
**Bar No. 006464**

Respondent.

PDJ-2011-9044

OFFICE OF THE  
PRESIDING DISCIPLINARY JUDGE  
SUPREME COURT OF ARIZONA

NOV 07 2011

FILED

BY

**FINAL JUDGMENT AND ORDER**

[SBA File No. 10-1223]

The undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on 10/21/11 pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

**IT IS HEREBY ORDERED** that Respondent, **Peter Strojnik**, is hereby suspended for 30 days for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective December 3, 2011.

**IT IS FURTHER ORDERED** that Respondent continue on probation that was instituted in File Nos. 09-0314 and 09-1451 and shall continue for a period of two years from September 20, 2011.

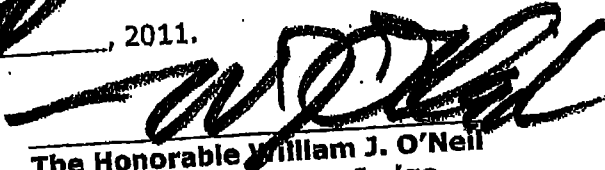
Respondent shall be responsible for any costs associated with State Bar's Member Assistance Program.

**IT IS FURTHER ORDERED** that, pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

**IT IS FURTHER ORDERED** that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ 1,213.06.

**IT IS FURTHER ORDERED** that Respondent shall pay the costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings in the amount of

0  
DATED this 7 day of NOV, 2011.

  
The Honorable William J. O'Neil  
Presiding Disciplinary Judge

Original filed with the Disciplinary Clerk  
of the Office of the Presiding Disciplinary Judge  
of the Supreme Court of Arizona  
this 7 day of November, 2011.

Copies of the foregoing mailed/emailed  
this 7 day of November, 2011, to:

Nancy A. Greenlee  
Attorney and Counsel at Law  
821 East Fern Drive North  
Phoenix, Arizona 85014-3248  
Email: [nancy@nancygreenlee.com](mailto:nancy@nancygreenlee.com)  
Respondent's Counsel

Copy of the foregoing emailed  
this 7 day of November, 2011, to:

Shauna R. Miller  
Senior Bar Counsel  
State Bar of Arizona  
Email: [lro@staff.azbar.org](mailto:lro@staff.azbar.org)

Copy of the foregoing hand-delivered  
this 7 day of November, 2011, to:

Lawyer Regulation Records Manager  
State Bar of Arizona  
4201 North 24<sup>th</sup> Street, Suite 200  
Phoenix, Arizona 85016-6288

by: 